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COVER: BALTHASAR GRIESSMANN. *Covered Goblet with Mythological Scenes*, c. 1680. Ivory. Ht: 20 ⅝". Coll. J. Paul Getty Museum.

A LONG-LOST CARAVAGGIO? NOT SO FAST DOUBTERS SAY BUT FRANCE EMBARGOES EXPORT JUST IN CASE

In April of this year, the art world learned that a painting of *Judith Beheading Holofernes* **(FIG. 1)**, found two years ago in a house in Toulouse in southwest France may be a lost work by Michelangelo Merisi da Caravaggio (1571-1610), better known as Caravaggio. The discovery has ignited debate among those who accept the work as authentic and others who are more skeptical. If the newly found Judith *is* determined to be authentic, it will be the greatest Caravaggio rediscovery since the *Taking of Christ* was discovered in a Jesuit residence in Dublin in the early 1990s.

FIGURE 1. CARAVAGGIO (?), ***Judith Beheading Holofernes.*** **Oil on canvas, 57 x 69 in. (144 x 175 cm.) Private Collection, Toulouse, France.**

The painting, which measures 57 x 69 inches, was discovered in 2014 when the owners of the house forced open a locked door in the attic to investigate the source of a leak. The owners contacted Marc Laborde, a local auctioneer, who put them in touch with the Paris art dealer, Eric Turquin, who suspected that the painting was Caravaggio's lost second version of *Judith Beheading Holofernes.* The first version, long accepted as authentic, is in the Barberini Palace in Rome. Turquin delayed the public announcement of its discovery for two years while he tried to have the work authenticated.

Following years of neglect and water damage from previous leaks, the painting first needed to be cleaned and restored. It was also subjected to technical analysis, including infrared reflectography and x-radiography. During the restoration process, the painting was brought to the conservation science center of the French museums (Centre de recherche et de restauration des musées de France — C2RMF), where experts spent several weeks studying it.

On the 25th of March, the French Minister of Culture declared the work a "National Treasure," purportedly on the recommendation of the Louvre after an unnamed American museum expressed interest in purchasing the painting. This triggered a 30-month export ban, giving French institutions time to thoroughly investigate the painting's attribution to Caravaggio.

NOT FOR THE SQUEAMISH: CARAVAGGIO'S JUDITHS

The gruesome scene derives from the Biblical Book of Judith and shows the moment when the beautiful Israelite heroine cuts off the head of the Assyrian General Holofernes to save her people. Caravaggio is believed to have executed two paintings of the scene, only the first of which is known today. Painted for Ottavio Costa in Rome around 1598, and cited in Costa's 1639 inventory,[1] that painting is traditionally identified as the one in the Galleria Nazionale d'Arte Antica in the Barberini Palace in Rome **(FIG. 2)**. It depicts a younger Judith grimacing

1 "Colori una Giudita, che taglia la testa ad Oloferne per il Signori Costi," in Giovanni Baglione, *Le vite de' pittori, scultori et architetti : dal pontificato di Gregorio XIII del 1572 in fino a'tempi di Papa Urbano Ottauo nel 1642* (Rome: Nella stamperia d'Andrea Fei, 1642), p. 138.

FIGURE 2. CARAVAGGIO, ***Judith Beheading Holofernes,*** **1598. Oil on canvas, 57 x 76 ¾ in. (145 x 195 cm.). Galleria Nazionale d'Arte Antica, Palazzo Barberini, Rome.**

with revulsion and determination as she cuts off Holofernes' head with a sword. Beside her, an elderly maid (Abra) stands ready with a cloth to receive the decapitated head. This painting bears many of the hallmarks of Caravaggio's early Roman period, including the severe foreshortening of Judith's arms, the dramatic chiaroscuro, the heightened realism, and the use of incisions in the canvas to mark out the composition.

"The recent discovery in France of another copy of Caravaggio's lost painting of *Judith Beheading Holofernes* naturally raises the possibility that this one might be Caravaggio's long-missing original."

Caravaggio painted a later version sometime before 1607, when it is mentioned in a letter from the Flemish painter Frans Pourbus the Younger to Duke Vincenzo I Gonzaga of Mantua as one of two Caravaggio paintings available for sale in Naples.[2] Pourbus describes them as a "Rosary" and "a painting of half-length figures of a Judith with Holofernes."

The Duke evidently passed on the purchase, as both paintings later were cited in the 1617 testament of the Flemish Caravaggisti painter and art dealer, Louis Finson. In the document, Finson declares himself co-owner with his partner, the painter Abraham Vinck, of a Rosary and a Judith and Holofernes painted by "Michael Angel Crawats." Both Finson and Vinck were working in Naples during Caravaggio's time in that city (to which he fled after killing a man in Rome), and where they presumably purchased the paintings before bringing them to Amsterdam. The painting of the Rosary is now identified as the *Madonna of the Rosary* in the Kunsthistorisches Museum in Vienna. Caravaggio's second painting of Judith, however, is known only through an anonymous copy (possibly by Finson) in a private collection in Naples (FIG. 3).[3]

FIGURE 3. LOUIS FINSON (?) ***Judith Beheading Holofernes,*** **1606-1607. Oil on canvas, 55 x 63 in. (140 x 160 cm.) Intesa Sanpaolo Collection.**

In contrast with his youthful first version painted in Rome, the copy shows that Caravaggio's second version was more restrained, typical of his later works. Whereas Caravaggio's earlier painting directs Judith's gaze and the viewer's toward the grisly act, a more mature and modestly dressed Judith in the later painting looks away from Holofernes, while her maid

2 John T. Spike, *Caravaggio* (New York: Abbeville Press, 2001), no. 89.

3 The recently restored Naples painting was the subject of a 2013 exhibition held at the Gallerie d'Italia, Palazzo Zeballos Stigliano, Naples. *Giuditta decapita Oloferne: Louis Finson interprete di Caravaggio.*

looks questioningly at her. The maid with the prominent goiters recalls a similar old woman with a goiter in Caravaggio's *Martyrdom of St. Andrew,* now in the Cleveland Museum of Art **(FIG. 4).**

FIGURE 4. CARAVAGGIO, ***Crucifixion of Saint Andrew,*** **ca. 1606. Oil on canvas, 91 ⅞ x 72 7/16 in. (233.5 x 184 cm.) The Cleveland Museum of Art.**

IS IT A CARAVAGGIO?

The recent discovery in France of another copy of Caravaggio's lost painting of *Judith Beheading Holofernes* naturally raises the possibility that this one might be Caravaggio's long-missing original. That is certainly the belief of Eric Turquin, who, with great media fanfare, unveiled the newly-found work in Paris on April 12, stating that it possesses the strength and quality of an authentic Caravaggio. He is not alone in his opinion. Nicola Spinosa, the former director of the Capodimonte Museum in Naples wrote in a 2015 opinion report that he believed the painting was "a true original of the Lombard master, almost certainly identifiable, even if we do not have any tangible or irrefutable proof."[4] Others in France, including government officials, apparently concur.

That lack of tangible proof, as well as stylistic concerns, is proving more problematic for other specialists. In an email to *The New York Times,* Caravaggio expert Mina Gregori, while acknowledging the "undeniable quality of the work," did not believe it to be by Caravaggio, and attributed it instead to Finson.[5] Another Italian Caravaggio specialist, Giovanni Papi, agreed that the painting was well-executed, but did not find it to be convincing as a work by Caravaggio.

Richard Spear, an American scholar of Italian Baroque art and author of *Caravaggio and his Followers,* told the Associated Press in April that he was "highly dubious" of the Caravaggio attribution. To IFAR's Executive

"That lack of tangible proof, as well as stylistic concerns, is proving more problematic for other specialists."

Director in May, he added that, based on photographs alone (he had not yet seen the work in person), he does not think it is by Caravaggio, and that to the best of his knowledge, no major Caravaggio scholar is accepting it.

His concerns are largely stylistic. "The picture," he said, has "some awkward passages that just don't wash, at least from the photographs." The wrinkles on the maid's face, for example, the strange curvilinear lines on the surface, are treated very differently from the wrinkles on the face of the old woman in the *Crucifixion of St. Andrew* in Cleveland, which Caravaggio painted in Naples ca.1606, the supposed approximate date and origin of the newly-discovered "Caravaggio." Yet the two pictures "are not alike". The structure of the face and the facial wrinkles in the Cleveland painting, he noted, are "beautiful and naturalistic," what you would expect from Caravaggio, but the structure of the maid's face in the Toulouse painting—notably the spaghetti-like highlights—"doesn't follow any logic of anatomy or age."

There are also "strange passages" on Holofernes' head in the

4 Angelique Chrisafis, "Lost Caravaggio Found in French Attic Causes Rift in Art World," *The Guardian* (April 12, 2016).

5 Doreen Carvajal, "Art Dealer Says Painting Found in French Attic is a Caravaggio," *The New York Times* (April 13, 2016).

new-found work, and the "blood gushing out of his head doesn't respond to gravity the way it should." Spear reiterated that these observations were based on photos alone and that he would "want to see the actual picture to confirm them."

"... The structure of the maid's face in the Toulouse painting — notably the spaghetti-like highlights — 'doesn't follow any logic of anatomy or age'."

Similarly, the infrared of the Toulouse painting, which was posted by Turquin online, has, Spear said, "some interesting and peculiar aspects" that potentially could be informative for attribution" and "might be worth studying," ... but there are aspects in the infrared that are not typical of Caravaggio's way of working.

It is not clear what would build a consensus for the work to be accepted as a Caravaggio. According to Spear, the artist's materials were not sufficiently unique to allow us to distinguish an original from a contemporaneous copy, although perhaps the combination of methods used, such as the preparation of the ground together with other technical features, could be distinctive, but even that "would be problematic."

Undaunted, the dealer Turquin claims that he is not concerned about the current lack of consensus around the Caravaggio attribution, pointing out that the Dublin *Taking of Christ* also had its detractors. He insists that research is ongoing, which will certainly involve further investigation into the painting's provenance, of which little is known. The painting's owner, whose name had not been made public as IFAR went to press, reportedly claims that the painting has belonged to the family at least since the mid-nineteenth century, and may have been brought to France from Spain by an ancestor who served in the Napoleonic army. Be that as it may, until more is known, any future sale of the painting, which carries an estimated $120 million price tag if proved authentic, will likely have to wait.

— Lisa Duffy-Zeballos
Art Research Director, IFAR

and **Sharon Flescher**
Executive Director, IFAR

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LETTERS TO THE EDITOR

REMINDER

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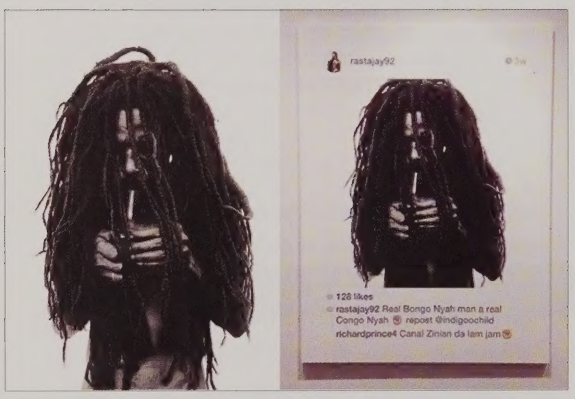
RICHARD PRINCE—AT IT AGAIN
WHAT IS "FAIR USE" IN THE AGE OF SOCIAL MEDIA?

Surprise! Appropriation artist Richard Prince is back in court. This time, he is being sued by photographer David Graham, who alleges that Prince infringed his copyrights by incorporating one of Graham's photographs into a 2014 exhibition, "New Portraits," held at New York's Gagosian Gallery.[1] The image, *Rastafarian Smoking a Joint* **(FIG. 1A),** was one of thirty-seven images (the other 36 were by other photographers) that Prince copied from Instagram, a popular photo sharing social media website. This isn't the first time Prince has been sued for incorporating a photographer's images into his own (and we dare say it won't be the last); nor is it the first time that his "New Portraits" exhibit has made headlines.


rastajay92
128 likes
rastajay92 Real Bongo Nyah man a real Congo Nyah repost @indigoochild
richardprince4 Canal Zinian da lem jam

FIGURES 1A and 1B. (A) (left) DAVID GRAHAM. ***Rastafarian Smoking a Joint,* 1996. © David Graham. (B) (right)** RICHARD PRINCE. ***Untitled,* 2015. Inkjet on canvas, 4 ft. ¾ in. by 5 ft ¾ in.**

DÉJÀ VU

In 2008, Prince was sued by another photographer, Patrick Cariou,[2] for his use of Cariou's photos (also depicting Rastafarians) in a different Gagosian exhibition, "Canal Zone."[3] After protracted litigation, the Second Circuit Court of Appeals ruled in a controversial decision in 2013 that Prince's use of *most* of Cariou's images was "fair" because it was sufficiently "transformative" from the original. The ruling was criticized by many legal scholars and others, including the Seventh Circuit Court of Appeals in Chicago, for failing to provide guidance or predictability for the future, as the *Cariou* court's distinction between what constitutes an infringing versus a non-infringing use was not very clear.

Nevertheless, the *Cariou* decision is cited by Prince as precedent for why Graham's lawsuit should be dismissed. Prince's April 2016 motion to dismiss argues that, as in *Cariou,* his use of Graham's photograph is "fair" because it "alters the original with 'new expression, meaning, or message'."[4] Unlike *Cariou,* however, the intermediary in the current case was not a book, but social media. Specifically, Instagram posts, thereby raising new questions as to what really is "fair" use in the age of social media. For his "New Portraits" exhibit, Prince captured "screen saves" of other Instagram user's posts, including text such as the poster's name, the time stamp, the number of "likes" the post received, and user comments, including comments Prince himself added. He then enlarged the screen saves and printed them on canvas with inkjets.

Untitled, Prince's sole work at issue in the pending lawsuit, depicts the screen save in which Instagram user "rastajay92" posted a copy of Graham's photograph **(FIG. 1B)** without Graham's permission and added the comment "Real Bongo

1 *Graham v. Prince,* No. 15-cv-10160 (S.D.N.Y. filed Dec. 30, 2015).

2 *Cariou v. Prince,* No. 08 Civ. 11327 (S.D.N.Y. March 18, 2011), *rev'd in part, vacated in part, remanded in part,* No. 11-1197-cv (2d Cir. Apr. 25, 2013).

3 See *IFAR Journal,* Vol. 14, nos. 1 & 2 (2013); Vol. 15, no. 2 (2014).

4 Quoting the standard used by the Second Circuit Court of Appeals in *Cariou v. Prince,* No. 11-1197-cv (2d Cir. Apr. 25, 2013).

Nyah man a real Congo Nyah," punctuated with an "emoji" (a small digital icon used to express an idea or emotion). By that time, the top and bottom of the photo had been cropped and "rastajay92" indicated that it was a "repost" from another Instagram user, "indigoochild" (who also did not have Graham's permission to display the image). Prince then added his *own* Instagram user name, "richardprince4," and the comment "Canal Zinian da lam jam" and an emoji to the bottom of *his* repost. Court records do not indicate where or how "indigoochild" obtained the image or whether he/she was the first person to upload Graham's photo to Instagram. Significantly, the original photo appears on Graham's fine art photography website with a copyright notice, "© David Graham." Graham never licensed the image to a third party.

Court records indicate that Prince sold *Untitled* to his dealer, Larry Gagosian, who, along with his gallery, is a named defendant in the lawsuit. Images of the works also appeared in the gallery's exhibition catalogue and promotional materials. After Graham filed suit, Prince posted copies of his artwork on Twitter alongside Graham's original photo, adding another social media website to the mix. Prince added the comment, "U want frame? Take mine. Only thing that counts is good art. All the everything else is bullshit."

WHAT'S GOOD FOR THE GOOSE IS GOOD FOR THE GANDER

This is not the first time Prince's "New Portraits" exhibit has been in the news. Last year, another Instagram user, "Missy Suicide" of the popular online community SuicideGirls, cleverly retaliated against Prince after he copied several of her Instagram photos. She and the rest of the SuicideGirls turned the tables and sold their *own* versions (using the same materials) of Prince's $90,000 copies of her Instagram posts for only $90 **(FIGS. 2A & 2B).**

In just one day, the SuicideGirls sold more than 250 prints, donating all the proceeds to the Electronic Frontier Foundation, a nonprofit that defends digital civil rights. They added the comment "true art" and posted a side by side of Prince's version next to theirs: on the Prince version they noted "profits go to rich gallery owner and millionaire 'artist'," and on their version they said, "sold by the actual people who created the image and profits go to charity." In sharing the images, Missy Suicide asked: "Do we have Mr. Prince's permission to sell these prints?" and then answered, "We have the same

FIGURES 2A and 2B. Side by side comparison shared by the SuicideGirls. (A) (left) Richard Prince's appropriation of the SuicideGirls' Instagram post (with additional comments from the SuicideGirls). (B) (right) The SuicideGirls' version of Prince's work. Photo: SuicideGirls.

permission from him that he had from us. ;)" (using the wink emoji). Prince shared that post, perhaps an indication of his tacit approval or simple respect for another artist who could play the same game, and reportedly called it a "smart idea." As art would have it, certain "investors" attempted to re-sell the $90 works at a hefty markup but it is unclear whether they had any success, although at least one dealer whom they approached, Magda Sawon, told them she was "not sympathetic" to their offers.

Graham's lawsuit does not name either of the other two Instagram users who reposted his photograph without permission. He is seeking injunctive relief to prevent Prince and Gagosian from reproducing, displaying, or selling the allegedly infringing work,

plus the maximum possible statutory damages. He has also asked the court to order the seizure and forfeiture of the work as well as the destruction of the allegedly infringing exhibition catalogues and promotional materials. Stay tuned to see whether Graham succeeds where Cariou failed or whether Prince's use of another artist's work will again be protected as "fair."

— ANN-MARGRET GIDLEY
IFAR Legal Associate
and **S. F.**

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ANOTHER CAMBODIA POSTSCRIPT
DENVER MUSEUM RETURNS KHMER SCULPTURE

Cambodia, which has been aggressively seeking the return of its cultural property,[1] has welcomed home yet another 10th-century Khmer statue **(FIG. 1)**. Known as the *Torso of Rama,* the 62-inch-high sandstone sculpture was handed over by the Denver Art Museum in a formal ceremony on March 28.

FIGURE 1. Sandstone *Torso of Rama,* Koh Ker, 10th century. Returned to Cambodia by the Denver Art Museum in March.

The museum acquired the torso in 1986 from the Doris Wiener Gallery in New York but realized the piece might have been stolen only after Cambodia identified it in 2013 as one of several works that had been illegally removed from the country. It was convinced to return the sculpture, when Cambodia provided "verifiable evidence" of the illegal removal; evidence, the museum said, that was not available at the time of acquisition.

According to Cambodian officials, the sculpture will return to its original home in the Prasat Chen temple on the Koh Ker temple complex. There, it will join six other recently returned sculptures that had been removed from Cambodia during the civil war that engulfed the country in the 1970s: two from the Metropolitan Museum of Art, and one each from the Cleveland Museum of Art, the Norton Simon Museum of Art, and Sotheby's and Christie's auction houses.

Cambodian officials are currently appealing to museums and private collectors to return the missing portions of the torso, as well as a handful of other sculptures from the Koh Ker complex that remain missing.

A happy ancillary outcome of the repatriation is the announcement by the Denver Museum and Cambodia of a new collaborative relationship to develop projects and programs benefitting both museum-goers and collections in Denver and Phnom Penh.

— A.M.G.

[1] *Graham v. Prince,* No. 15-cv-10160 (S.D.N.Y. filed Dec. 30, 2015).

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HEAR, HEAR!

CRUZ, SCHUMER AND OTHERS SPONSOR HOLOCAUST RESTITUTION BILL IN SENATE

On April 7th, virtually on the eve of the New York State presidential primary election, Senator Ted Cruz (R-Texas) joined with Senators Chuck Schumer (D-NY), John Cornyn (R-Texas) and Richard Blumenthal (D-Conn.) to introduce a bill into the Senate designed to help claimants recover art stolen or otherwise misappropriated from them or their families during the Nazi era.

On June 7, as *IFAR Journal* was going to press, two subcommittees of the Senate Judiciary Committee held a high-profile joint hearing on the bill. Five speakers, led by Ronald S. Lauder, who had spearheaded the bill, addressed questions – mostly sympathetic – posed by a long list of Senators. Mr. Lauder, a businessman and former Ambassador to Austria, is currently the head of several prominent Jewish organizations.

Lending movie-star glamour to the occasion was Dame Helen Mirren **(FIG. 1)**, who starred in *Woman in Gold*, the 2015 blockbuster film that told the story of one of the most notable and successful Holocaust art restitution claims. Senator Schumer noted that it was after seeing the movie that he called Ambassador Lauder to find out what he could do to help. The proposed Act, he added, was "a drop of justice in what was an ocean of injustice."

Entitled the Holocaust Expropriated Art Recovery Act of 2016 – HEAR for short – the bill (S. 2763) aims to redress certain "burdensome" procedural obstacles claimants currently face in trying to recover their art works. It would allow cases to be decided purely on their merits, in accordance with the proponents' reading of longstanding U.S. policy, starting with the 1998 Washington Conference and continuing through the 2009 Terezin Declaration in Prague, to which the U.S. is a signatory.

On the surface, the bill's bipartisan sponsors are an unlikely group of political bedfellows, and the timing of Senator Cruz's endorsement in April was viewed by skeptics as a political ploy designed for the New York primary. But the timing was, in fact, a coincidence. "Senator Cruz has been in support [of the bill] for over a year," said Agnes Peresztegi,[1] legal counsel to Mr. Lauder. Its introduction in the Senate, she added, was delayed a few weeks, creating the appearance of a connection with the New York primary that didn't exist.

FIGURE 1. Senator Richard Blumenthal greeting Dame Helen Mirren at the June 7 Senate hearing. Ronald S. Lauder is on the right.

One of the organizations that Lauder chairs, the World Jewish Restitution Organization (WJRO), has been behind the nascent bill for at least a year. In June 2015,[2] it distributed a report critical of the approaches of U.S. museums toward restitution claims, outlining how various museums have used procedural defenses in what the WJRO describes as an "attempt to defeat claims" to recover Nazi-era stolen art "by avoiding any adjudication of the substance of those claims."

> "On the surface, the bill's bipartisan sponsors are an unlikely group of political bedfellows ...."

First among the procedural handicaps to claimants is the statute of limitations, which differs from state to state, and may

[1] Conversation and email exchange with IFAR's Executive Director on May 24, 2016.

[2] *Graham v. Prince*, No. 15-cv-10160 (S.D.N.Y. filed Dec. 30, 2015).

expire before a claimant even discovers the current location of the stolen art or that it once belonged to his/her family. The one state – California – that did enact an extended statute of limitations specifically to address Holocaust-era restitution claims saw that law struck down as unconstitutional by the Court of Appeals for the Ninth Circuit because it "infringed on the Federal Government's exclusive authority over foreign affairs." (A subsequent California law, not limited to Holocaust-era restitution claims, survived.)

If enacted, the HEAR Act would address the patchwork quilt of state limitations periods and the Ninth Circuit's ruling by creating a uniform *national* statute of limitations period of 6 years *specifically* for Holocaust-era claims. The limitations clock would begin to run only *after* the claimant's actual discovery of the identity and location of the lost artwork, as well as facts indicating that the claimant has a possessory interest in the art.

The law — and extended limitations period — would sunset after 10 years; in other words, it would apply to any new claim filed by December 31, 2026, and, notably, it would also apply to any claim that is still pending as of the date of enactment, *including* long-running claims, such as the Cassirer family claim against the Thyssen-Bornemiza Collection in Madrid and the von Saher claim against the Norton Simon Museum in Pasadena, assuming that they are not settled or decided before then.

Perhaps more significantly, in its current form, the bill would also apply to any civil claim or cause of action that was previously dismissed "based on the expiration of a Federal or State statute of limitations" or other law "relating to the passage of time (including the doctrine of laches)," so long as the final judgment hadn't been entered when the Act becomes law. The Act would pre-empt any other applicable Federal or State statute of limitations.

The American Society of Appraisers (ASA), amongst other organizations, has announced its support of the Act, noting that it believes it would provide claimants "much needed consistency across states" and allow those who had otherwise valid claims dismissed due to the passage of time another chance to seek redress. As *IFAR Journal* went to press, neither the American Alliance of Museums (AAM) nor the Association of Art Museum Directors (AAMD), both of whose member museums are mentioned in the bill and in the 2015 WJRO report, had publicly stated a position for or against the Act.

Senator Chuck Grassley (R-Iowa), Chairman of the Senate Judiciary Committee, who made a brief appearance at the June 7 hearing, promised to expedite the bill and put it on the agenda as soon as the authors of the legislation feel it is ready. Assuming it passes in the Senate, the bill will have to get through the House of Representatives before the 114th Congress ends in December, and then go to the President for signing.

— S.F. and **A.M.G.**

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SYRIAN OBJECTS PROTECTED BY NEW LAW

On May 9, 2016, President Obama signed into law a bill to prevent the illegal trafficking of cultural objects from Syria and also other areas where cultural property is at risk due to political instability, armed conflict, natural disasters, and other causes.

Originally introduced in March 2015 and significantly revised as it passed through Congress, the new legislation provides a framework to protect certain types of Syrian objects. It also calls for (although it stops short of mandating) the creation of an entirely new inter-agency coordinating committee charged with protecting cultural property.

Known as the Protect and Preserve International Cultural Property Act (Public Law No: 114-151 (2016)), the new law is similar to a bill that was introduced into Congress in late 2013,[1] but that never made it out of committee. Both that bill and the new law were spurred by a 2013 UN Security Council Resolution (Number 2199) directing Member States to take action to prevent the trade in Iraqi and Syrian cultural property illegally removed from those countries, although the extent to which these objects have entered the U.S. until now is unclear and appears to be minimal.

The U.S. legislation also stems from an effort to counteract the financing of extremist groups such as ISIL (also known as ISIS), which proponents of the legislation believe is being facilitated by the illicit trafficking in cultural objects. In the words of Sen. David Perdue (R-Ga), a co-sponsor of the legislation:

> "ISIS is raiding the cradle of civilization — destroying cultural property and selling artifacts on the black market — to help fund its reign of terror and purge the Middle East of non-Islamic history. Similar crimes have been committed throughout history, and the United States has led international efforts to protect cultural property and heritage."

The legislation directs the U.S. President to impose import restrictions on archaeological and ethnographic material unlawfully removed from Syria on or after March 15, 2011, with exceptions provided for specified items entering the U.S. for the purpose of protection, restoration, conservation, study, or exhibition, without profit and pursuant to a waiver signed by the President. Significantly, the law gives Congress long-term oversight, by requiring the executive branch to report to it annually on its preservation and protection efforts.

As reported previously in *IFAR Journal*,[2] the 2016 bill initially received sharp criticism from the American Association of Museum Directors (AAMD), a membership group of more than 200 of the largest art museums, and the Committee on Cultural Policy (CCP), a nonprofit educational organization that represents the views of collectors. But it was significantly revised.

> "It also calls for (although it stops short of mandating) the creation of an entirely new inter-agency coordinating committee ..."

As enacted, the suggested inter-agency committee would coordinate the cultural property protection efforts of the executive branch. Chaired by a Department of State employee, the committee would comprise representatives of the Smithsonian Institution, other federal agencies, and various governmental and non-governmental organizations, including the U.S. Committee of the Blue Shield, museums, educational and research institutions, and members of the art market. In addition to

1 H.R. 5703.

2 See *IFAR Journal*, Vol. 16, nos. 1 & 2 (2015).

protection and preservation, the committee would be charged with preventing and disrupting looting and the illegal trafficking of international cultural property — particularly exchanges tied to terrorist and criminal organizations. It would also oversee the lawful exchange of international cultural property.

Although the International Council on Museums (ICOM) published the "Emergency Red List of Syrian Cultural Objects At Risk" in September 2013, no formal import restrictions on Syrian objects into the U.S. were in force until this law. Import restrictions are generally the result of bilateral agreements with foreign nations in accordance with the U.S. Cultural Property Implementation Act (CPIA) of 1983, which implements the 1970 UNESCO Convention, but there is no bilateral agreement with Syria, and given the political and military instability in that country, there is not likely to be such an agreement anytime soon. The new law does not replace but would, rather, bolster efforts under current laws such as the National Stolen Property Act and Customs statutes to prevent the importation and trafficking of designated cultural objects.

—A.M.G. and **S.F.**

• • •

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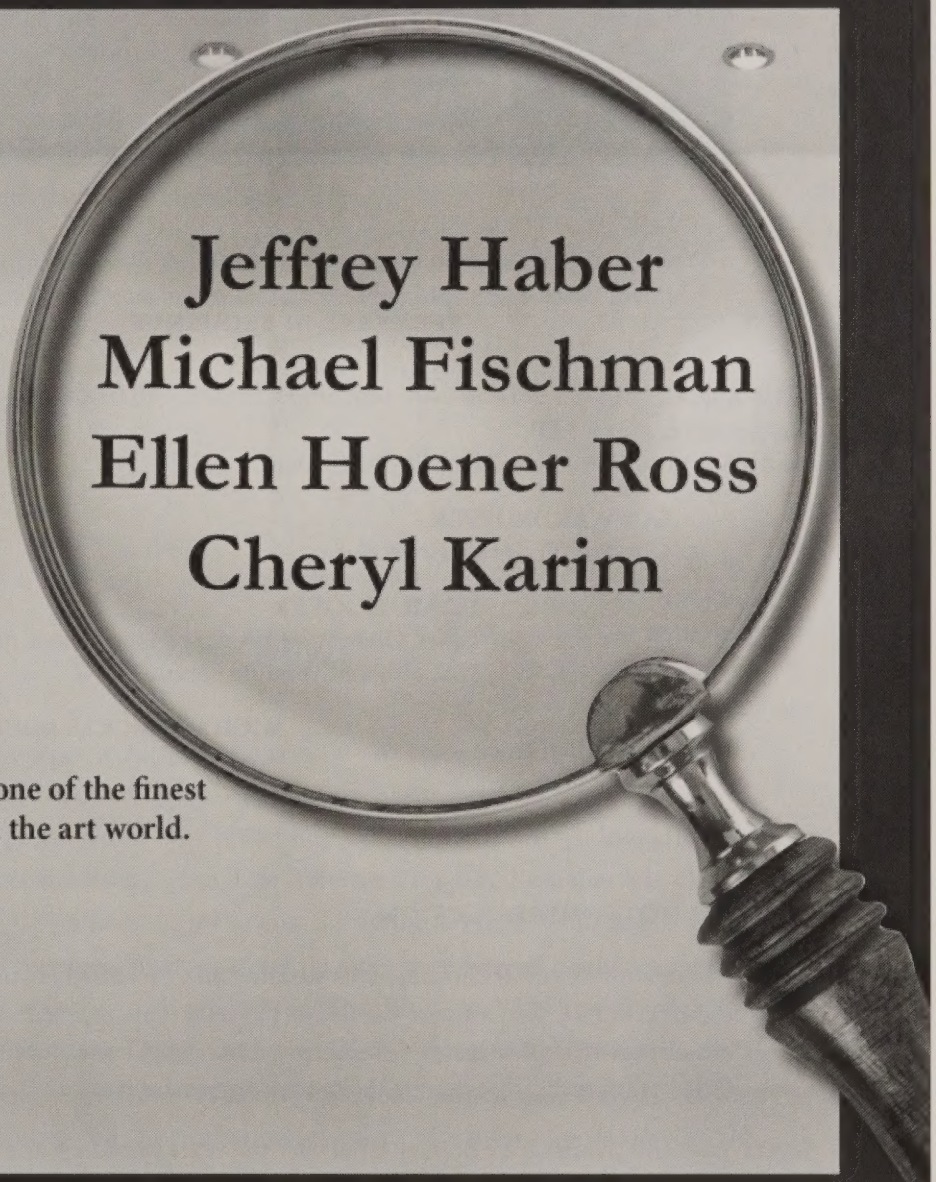

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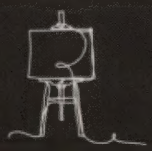

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WHAT THE ART WORLD NEEDS TO KNOW ABOUT THE IVORY BAN AND THE FEDERAL RULE

An *IFAR Evening*, November 24, 2015

SPEAKERS IN SEQUENCE

MARCUS ASNER
Partner, Arnold & Porter LLP;
President's Advisory Council on Wildlife Trafficking

IAN WARDROPPER
Director, The Frick Collection

CRAIG HOOVER
Chief, Division of Wildlife Management Authority,
U.S. Fish and Wildlife Service

MICHAEL MCCULLOUGH
Partner, Pearlstein McCullough & Lederman LLP

EDITOR'S NOTE/INTRODUCTION

The shocking number of African elephants slaughtered or maimed for their ivory each year is a gruesome reminder that a tragedy is taking place on that continent. It is estimated that an African elephant is killed every 15 minutes – about 3,000 each month – mainly for the value of their ivory tusks, threatening the species' very existence.

Several laws and treaties have been enacted over the years to address the crisis brought on by elephant poaching. Some of these laws directly impact the importing, collecting, exhibiting, transporting, and selling of art objects made of ivory, even those containing only small amounts of ivory. Some of the laws are confusing and even conflicting. Some affect objects

made many years ago, which don't *seem* to have a direct link to the *current* poaching crisis. In 2015, the U.S. Fish and Wildlife Service proposed a change to the Endangered Species Act as it affects African elephants that would further restrict trade in elephant ivory. The public comment period for the Proposed Rule ended in late September 2015, and the art community was one of many communities that weighed in. A Final Rule would be put in place in 2016 after consideration of the comments.

In November 2015, IFAR devoted an *IFAR Evening* to the subject of the Ivory Ban and the Proposed Federal Rule. It was organized with the Fordham Art Law Society and held at Fordham Law School. Attendees received CLE credit and an educational packet. The speakers addressed the issue from a variety of perspectives: that of an art historian/ museum director; that of an attorney who spearheaded an Art and Antiques Trade Group to meet with government officials about the ivory ban; a member of President Obama's Advisory Council on Wildlife Trafficking; and, via electronic hook-up, the point person from the U.S. Fish and Wildlife Service on the Proposed Rule.

Nothing said that evening was intended to downplay the tragedy of the poaching crisis; rather, the program was designed to educate an art audience to the important issues involved and the complicated regulations.

On the following pages are the edited proceedings of the four talks and the Q&A.

BREAKING NEWS

As IFAR went to press in early June 2016, the Final Rule was announced by the Fish and Wildlife Service, effectively imposing a near-total ban on commercial trade in African elephant ivory. The Rule, published in the Federal Register on June 6, will go into effect on July 6. Fundamentally, the Final Rule differs little from the Proposed Rule that was discussed at the *IFAR Evening.* Significantly, it clarifies the definition of *de minimis* by stating that the primary source of an object's value cannot be more than 50% of the item or contain more than 200 grams of ivory. In coming to the Final Rule, the F&WS reviewed more than 1.35 million public comments. Craig Hoover, Chief, Division of Management Authority at F&WS, told IFAR that the decisiveness of the Rule would ensure that the U.S. market is not contributing to poaching and the elephant ivory crisis. Moreover, it positions the U.S. to push China and other countries to take similar decisive action.

THE LEGAL AND REGULATORY LANDSCAPE—AN OVERVIEW

MARCUS ASNER*

"I sit on President Obama's Advisory Council for Wildlife Trafficking. At our hearings we see strange bedfellows. Gun owners as well as members of orchestra groups come to talk to us. They are very opposed to the ivory ban."

The ivory trade presents a difficult subject to talk about. It is not just about trafficking issues and going after poachers and bad guys, which I did in my old job as a federal prosecutor. The status of ivory in our society is different from almost any other thing that we deal with, and it has had a special status for centuries. The King James Bible, for example, tells the story of the Queen of Sheba meeting King Solomon, whose magnificence and wealth is epitomized by his ivory throne **(FIG. 1)**. Solomon talks about his fleet of trading ships that bring back gold, silver and ivory. Throughout art and literature, ivory has played a special role, and that cannot be lost as we think through, as a society, how to handle the elephant poaching problem.

I want to start the discussion by presenting a brief history of how we view ivory, and then walk you through the U.S. federal regulatory landscape. It is important to emphasize "federal" because the federal regulatory landscape is confusing all by itself, but there are fifty states as well, some of which are entering into the game, New York State among them. Of course, New York is the center of the U.S. art trade, and the patchwork of laws governing trade in ivory is incredibly complicated.

As already noted, ivory has been historically esteemed. It is precious, valuable, and part of our culture, our art, our literature. We say everything from "ivory tower," to describing a woman's skin as "ivory," to "ivory soap." It pervades our culture; and it always connotes something of value.

The king made a great throne of ivory, and overlaid it with the best gold. . . . The king had a fleet of trading ships at sea along with the ships of Hiram. Once every three years it returned, carrying gold, silver and ivory, and apes and baboons.

– 1 Kings 10

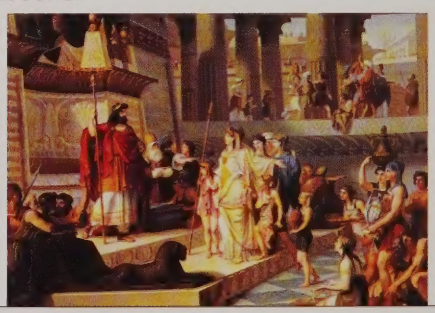

FIGURE 1. GIOVANNI DEMIN (1786-1859). ***Solomon and the Queen of Sheba.*** Oil on canvas. 41 ½" x 54 ½". Priv. coll.

* Marcus Asner is a Partner at Arnold & Porter LLP and is on the President's Advisory Council on Wildlife Trafficking.

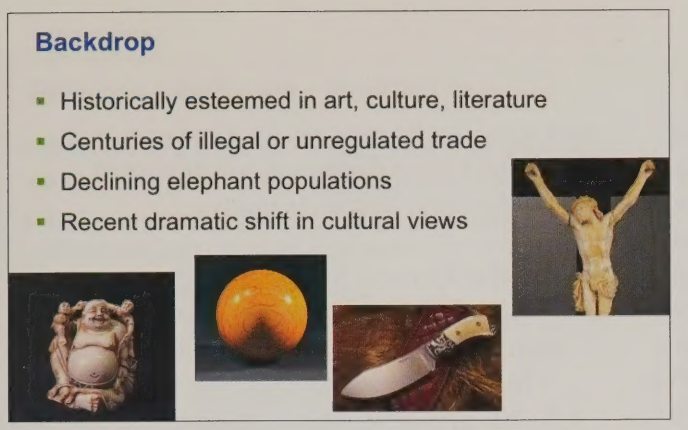
Backdrop
Historically esteemed in art, culture, literature
Centuries of illegal or unregulated trade
Declining elephant populations
Recent dramatic shift in cultural views

FIGURE 2. Evolving views on ivory.

Even back in the days of Solomon, there was a massive trade in ivory, and, for centuries, it was largely unregulated and legal. Over time, this led to a decline in the population of elephants. In Northern Africa, elephants essentially disappeared. Part of that may be due to climate change, and other reasons, but over time the population declined at least in part because of poaching. Significantly, society's views about ivory also have changed dramatically in the last generation, almost unlike anything else I can think of. The closest analogies may be our changed attitude toward the antiquities trade, or slavery. The tension between the historical significance of ivory and the realities of the poaching crisis complicates our discussion **(FIG. 2).**

Another reason the ivory trade is difficult to talk about is the patchwork nature of the laws. I, who actually practice in this area, can tell you how utterly confusing they are.

PRE-2014 FRAMEWORK

We start with CITES, the international convention on trade in endangered species, which was drafted in 1973 and went into effect in 1975.[1] In many ways, CITES provides the backdrop of both international trade and the federal legal landscape. It enumerates three categories: Appendix I, Appendix II and Appendix III, which are gradations based on how threatened the species is **(FIG. 3).**

Right from the beginning of the enactment of CITES, Asian elephants were part of Appendix I; the species is endangered. It is illegal to trade in Asian elephant ivory unless it is an antique, and that's been the law since 1975, and it's the law today. You cannot bring in new Asian ivory, or Asian ivory that's twenty years old. It has to be very old Asian ivory, more than 100 years.

Things get complicated, however, from a legal/regulatory point of view, with African elephants. In 1976, Ghana put African elephants into Appendix III in their country. A year later, African elephants went up to CITES Appendix II, which essentially means African elephants were considered "threatened but not endangered." Then, in 1990, because of a huge decline in the population of African elephants, CITES put African elephants into Appendix I. And then, at least some elephant populations, but not all of the populations in Africa, were put back into Appendix II, which meant that you could do some trade, at least according to CITES. The treaty provided exceptions allowing trade for pre-Convention ivory and hunting trophies. The idea was that, in certain circumstances, with healthy populations, hunting actually puts value back into the community, at least that is the theory. In addition, and this becomes important for the supply and demand in the ivory trade, some countries stockpiled ivory before the ban, and they were allowed to sell the ivory in one fell swoop in 1999 and 2008, which put a lot of ivory out into the market.

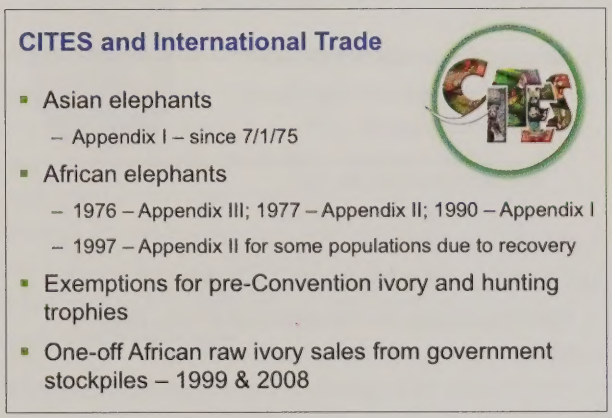
CITES and International Trade
Asian elephants
– Appendix I – since 7/1/75
African elephants
– 1976 – Appendix III; 1977 – Appendix II; 1990 – Appendix I
– 1997 – Appendix II for some populations due to recovery
Exemptions for pre-Convention ivory and hunting trophies
One-off African raw ivory sales from government stockpiles – 1999 & 2008

FIGURE 3. CITES and the international ivory trade.

[1] The Convention on International Trade in Endangered Species of Wild Fauna and Flora was signed 3 March 1973 and entered into force 1 July 1975.

In the United States, the Endangered Species Act (ESA) is the legislation that enacts CITES into law. So things get a little more complicated; you have CITES and also the Endangered Species Act, but rather than having an Appendix I and an Appendix II, the words in the ESA are "endangered" and "threatened." Asian elephants have been "endangered" since the word go, and as a practical matter, that means you can only bring in Asian elephant ivory if it's over a hundred years old. Also, it can't have been modified after December 28, 1973, and it has to have entered into the United States via certain specific ports. There's also a pre-Act exception. So the landscape for trade in Asian elephant ivory actually is relatively simple.

The situation for trade in African elephant ivory is far more complicated. The United States decided to pass the African Elephant Conservation Act in 1989, under which the Secretary of the Interior had to decide which countries had enough controls in place to be allowed to export ivory to the United States. The Secretary also had to make the same determination about the transit countries for ivory coming to the United States. So, in 1989, the Secretary of the Interior issued a ruling stating that *no* country had controls up to United States' standards, which means that in 1989 the U.S. effectively issued a moratorium mandating that no African ivory could come into the United States **(FIG. 4).** In many ways, the ban covering African ivory is broader than the ban for Asian ivory, even though the African elephant is only threatened and the Asian elephant is endangered.

Pre-2014 United States Landscape
U.S. FISH & WILDLIFE SERVICE
Endangered Species Act (ESA)
– Antique exception for importation
• At least 100 years old
• Has not been repaired or modified with endangered species on or after December 28, 1973
• Entered through specified ports
– Pre-Act exception
African Elephant Conservation Act (AECA)
– 1989 moratorium on importation of African ivory
– Exception for African sport-hunting trophies

FIGURE 4. Pre-2014 United States landscape, including the Endangered Species Act (ESA).

"In the United States, the Endangered Species Act is the legislation that enacts CITES into law. So things get a little more complicated; you have CITES and also the Endangered Species Act, but rather than having an Appendix I and an Appendix II, the words in the ESA are "endangered" and "threatened." Asian elephants have been "endangered" since the word go …"

It gets even more complicated. Under the Endangered Species Act, the Secretary of the Interior promulgated a rule, known as 4A (and also as §17.40(e)), which said that, despite what the Secretary said about the moratorium in the African Elephant Protection Act, the U.S. nevertheless *would* allow African ivory to come into the United States under certain circumstances. Raw and worked African ivory could be imported if it's a bona fide antique—more than a hundred years old on the day of import. Also allowed would be an ivory object that had been exported out of the United States after having been previously registered by the Fish and Wildlife Service. You also could bring in carved ivory with a permit, but raw ivory could not be exported from the United States. Another exception was made for importing of sports-hunting trophies. This became the law of the land, under which everybody operated for years. But remember, Rule 4A was promulgated under the *Endangered Species Act;* it did nothing, technically, to impact the much broader African Elephant Protection Act moratorium. The Fish and Wildlife Service, however, essentially said that, as a matter of discretion, it was not going to enforce the African Elephant Protection Act differently from the framework described in Rule 4A.

So, the pre-February 25, 2014 domestic landscape allowed ivory sales within a U.S. state and across state lines if the ivory had been imported legally

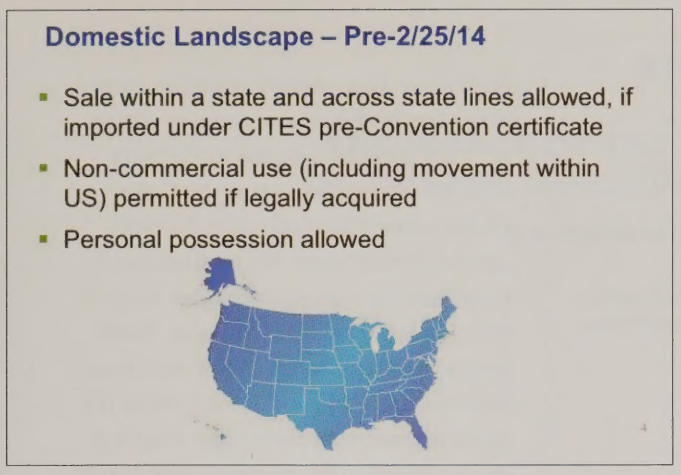
Domestic Landscape – Pre-2/25/14
Sale within a state and across state lines allowed, if imported under CITES pre-Convention certificate
Non-commercial use (including movement within US) permitted if legally acquired
Personal possession allowed

FIGURE 5. Domestic landscape before Director's Order 210, February 25, 2014.

under CITES, or had a CITES pre-Convention certificate **(FIG. 5).** In addition, non-commercial use of ivory was permitted, including non-commercial movement within the United States. So if you had a watch made out of ivory, or a gun with an ivory handle, you could move it across state lines, and personal possession was allowed.

A NEW U.S. STRATEGY

That was the framework. But in 2014, we entered a new world, and things got even more complicated. There was a steep decline in the African elephant population, which will be addressed later. It was during the time period when African elephants went from Appendix I to Appendix II. At the same time, there was a rise in the economy of Asia, and, with it, an increased demand for African ivory. Poaching also increased. There were reported ties to terrorist groups within the range countries, which were usually developing countries, and an undercutting of the rule of law, contributing to local instability. There were concerns about stealing the economic value from the local economy. While someone might pay a child fifteen dollars to kill an elephant, that elephant in fact may be worth over a hundred thousand dollars for the local community. Poaching was contributing large amounts of money to an illegal economy. The Fish and Wildlife Service observed that bad guys were dipping the poached ivory in coffee and doing other things to make it look old in order to get it into the United States. There were some very high profile legal cases where Fish and Wildlife busted people for having new ivory that was made or would have been made to look old.

This situation led the Director of Fish and Wildlife in February 2014 to issue Director's Order 210 as part of a new National Strategy for Combatting Wildlife Trafficking. It was later modified in May 2014 **(FIG. 6).** Effectively, it said that we are now going to remove the applicability of the "Special Rule" (Rule 4A) from the moratorium and will henceforth enforce the moratorium. Thus, no more commercial imports. Non-commercial imports would be allowed only in certain specific instances — sports trophies, scientific specimens, and certain law enforcement actions. Worked ivory can be brought in if it was legal, acquired pre-CITES, and part of a household move, or part of a musical instrument or a traveling exhibition. Otherwise, there is supposed to be no commercial ivory importation into the United States.

> "In many ways, the ban covering African ivory is broader than the ban for Asian ivory, even though the African elephant is only threatened and the Asian elephant is endangered."

Fish and Wildlife also announced that, going forward, it would strictly enforce the antiques exception, so the person claiming the exception had to prove the ivory was over a hundred years old. A claimant trying to import ivory under the antiques exception also had to do laboratory tests and use a qualified appraiser to establish that the ivory was antique, but they could not use an appraiser employed by her own company. Think about the burden for auction houses, who naturally wouldn't want to bring in an appraiser from a rival company. But in any event, this is the law of the land as it stands right now.

Now the situation is likely to change a bit more. A new Proposed Special Rule (50 C.F.R. 17.40(e)) was announced relatively recently, and there was a

Director's Order 210 (as amended 5/15/14)

- No commercial imports of African ivory
- Non-commercial imports of African ivory, only:
  - Sports-hunted trophies
  - Law enforcement/scientific specimens
  - Worked ivory, if legally acquired and removed from wild before 2/26/76, has CITES certificate, was not sold since 2/25/14, and is part of:
    - A household move
    - A musical instrument
    - A traveling exhibition
- Strict enforcement of ESA antiques exception
- Claimant has burden to prove > 100 years old
  - Laboratory testing
  - Detailed history, such as family photos, research assigning to known time period or artist
  - Qualified appraisal (not an employee of a party to the transaction)

FIGURE 6. Director's Order 210 as amended May 15, 2014.

comment period, which Craig Hoover will address. [The Final Rule was subsequently published June 6, 2016.] Effectively, it prohibits trading in African ivory in interstate or foreign commerce unless the ivory meets the antique exception. It divides trade into one category and imports into another category. Importation is dealt with just like the Director's Order; trade, however, is dealt with very differently.

Let me briefly address going forward. Right now, there is nearly a complete ban on commercial ivory trade in the United States. If you try to fit under the antique exception, it's extremely challenging to establish that something is an antique. The exceptions do not permit people to import many important pieces of ivory or art made from African ivory, such as statues. Many legitimate interests — including museums, auction houses, antique dealers, and scrimshaw artists — are impacted.

I sit on President Obama's Advisory Council for Wildlife Trafficking. At our hearings we see strange bedfellows. Gun owners as well as members of orchestra groups come to talk to us. They are very opposed to the ivory ban. All of them think that the Council had something to do with the ivory ban, which isn't true, but we listen to them, and they are all incredibly sincere. We see a lot of deeply held views. Some people claim the ban is overbroad, that it devalues important art. Others think it's an important measure to fight what is a serious problem for the whole world, and for the United States, recognizing that elephants are not only important culturally, but a keystone species important to the environment in many countries. Still others question whether a ban is even appropriate. Is there, in fact, a link between poaching and prior practice? We hear people talk about the personhood of animals, how elephants are a higher form of mammal, and that many mammals have emotions.

GOING FORWARD

Personally, I am torn. I listen to all of it and think this is, as I previously said, unlike any other issue that we've wrestled with. Discussions about the ivory ban have dominated our Council meetings. Keep in mind that my own background was in law enforcement and poaching. There are some very important fixes that we could have made to the Federal statutes to help fight all sorts of poaching, but, unfortunately, the public comment period has always been focused primarily on the ivory ban.

There also are issues of fairness regarding the timing of the Director's Orders and things we might do to allow the commercial import of definitively established antiques, with a sufficiently robust process to address the "laundering" problem. But I will leave these issues for the discussion and Q&A period.

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THE IMPACT OF THE FEDERAL RULE ON MUSEUM QUALITY IVORY OBJECTS

IAN WARDROPPER*

"I will try to suggest the gap in our cultural record that would open if antique ivory—all my examples are over 100 years old—were barred from entering museums and traveling exhibitions."

All of us abhor the poaching of elephants for ivory, but museums have long had a role in preserving and collecting ivory, among many other materials that have been shaped into artistic and historically important objects over the millennia. Its white surface was valued for its purity, both symbolically and in reality, and its dense structure, for the precise carving it demands. These features have made ivory one of the most prized media over the millennia, as has been said, and some of the most significant religious and secular objects have been created in ivory.

I will focus on two museum activities impacted by the proposed [and now final] ivory regulations — acquisitions and exhibitions —and will start by showing a selection of ivory objects acquired by American museums from abroad over the past twenty years, which, without a museum exception to the proposed rules, could no longer be imported. On this point, I want to thank the Fish and Wildlife Service — and Craig Hoover, in particular — for listening to the concerns of the museum community. I will limit myself to European examples, both for reasons of time and also because it's my field of expertise. This leaves aside vast areas of art affected by the rules — including Ancient Egyptian, Greek or Roman, and all periods from the Americas, Asia, India, and the Middle East. Thus, I will be discussing only a fraction of objects, but objects that I happen to have worked with over the years, and I will try to suggest the gap in our cultural record that would open if antique ivory — all my examples are over 100 years old — were barred from entering museums and traveling exhibitions. When these ivory objects are acquired by museums, of course, they are essentially removed from trade, and they are conserved in the public realm.

The affected objects range from the Middle Ages to seventeenth century Baroque. This *Fountain of Youth* **(FIG. 1),** rather charmingly showing an old man (top left) about to dip his foot in the water and courting couples below, was probably the cover of a box of wax writing tablets. It was made in Paris between 1320 and 1400 and is now in the Cloisters. It is a tiny secular object, only about four inches

FIGURE 1. ***Plaque with the Fountain of Youth,*** Paris, c. 1320-40. Ivory box cover. 4 7/16″ x 2 5/8″. Access. No. 2003.131.4. The Cloisters Collection.

* Ian Wardropper, Ph.D. is the Director of The Frick Collection, New York, and the former Chairman of the department of European Sculpture and Decorative Arts at the Metropolitan Museum of Art.

FIGURE 2. ***Man of Sorrows,*** South Germany, c. 1500. Elephant ivory with paint and gilding. 3 ⅜″ x 2 ½″. Access. No. 1999.227. The Cloisters Collection.

high, which is one of the significant factors when it comes to performing the necessary tests for ivory, because the only true test is a destructive test, where you take a fragment of the object to determine whether it is ivory. And there is an even more complicated scientific test to determine the age of the object, but many museums simply don't want to do that for an object this small.

Another object in the Cloisters, a religious object **(FIG. 2),** is also very small, three inches high, but it is very moving, a *Man of Sorrows* from South Germany. Created around 1500, the relief is partially painted and gilded.

To move on to the seventeenth century Baroque, we have a small ivory statuette of *Christ Bound* **(FIG. 3),** about twelve inches high, made by the Flemish artist François Duquesnoy, who practiced in Rome in the first half of the seventeenth century. I think it is one of the greatest works of any medium of sculpture that's been acquired by an American museum in recent years.

Moving from that very smooth and sleek object to a very dense and complicated one made a few years later, we have a covered goblet from about 1680 **(FIG. 4 and Journal cover).** Now in the Getty Museum, it was acquired in 2006. It represents the allegory of temptation of youth and shows Minerva versus Bacchus. We can see from the grape leaves that cover the surface and from its very function as a tankard, that Bacchus is winning this battle over the tempted youth. In contrast to the smooth surfaces of the Duquesnoy figure, this represents the virtuosity of carving and complexity of design that was admired by north Europeans and was possible in the dense material of ivory. It is an example of the sheer density of ivory, permitting some of the most complex and intricate carving that can be done in any medium.

"It is an example of the sheer density of ivory, permitting some of the most complex and intricate carving that can be done in any medium."

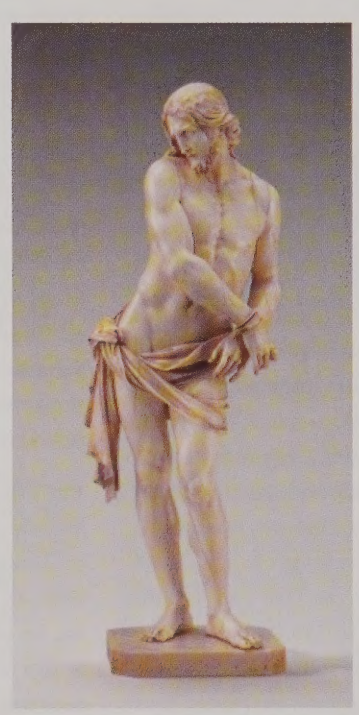

FIGURE 3. Attrib. to **FRANÇOIS DUQUESNOY** (Flemish, 1597-1643). ***Christ Bound,*** c. 1620's. Ivory. Ht: 12 ⅞″. Patrons Permanent Fund 2007.67.1. Coll. National Gallery of Art, Washington, DC.

FIGURE 4. BALTHASAR GRIESSMANN. ***Covered Goblet with Mythological Scenes,*** c. 1680. Ivory. Ht: 20 ⅝″. Coll. J. Paul Getty Museum.

FIGURE 5. PIERRE GOLE. ***Cabinet on Stand,*** c. 1665. Walnut, oak, tortoise shell, ivory, boxwood, ebony, mahogany, kingwood and gilt bronze. 74″ x 56″ x 20″. Access. No. 2000.25.a-b. Coll. Fine Arts Museums of San Francisco.

Ivory was often a secondary material in furniture. A French example from about 1665 **(FIG. 5)** was made by Pierre Gole, who was the most important cabinetmaker in Paris at that time, working for King Louis XIV. This cabinet shows a combination of materials, which was highly prized in the Baroque era. There is boxwood, mahogany, ebony, tortoise shell, gilt bronze, and the white areas are ivory additions, which are inlaid as veneers into the carcass of the piece of furniture. Some of the other materials, such as tortoise shell, are also endangered species, and which I understand may come under discussion for more stringent restrictions similar to ivory in the future.

A totally different object with ivory is this *Model D Pianoforte and Stools* **(FIG. 6),** designed by the English artist Sir Lawrence Alma-Tadema. It is made of ebony, coral, mother-of-pearl, copper, brass, woods, plus painted scenes by John Poynter, and was built in London in 1884-87 specifically

FIGURE 6. Designed by **ALMA TADEMA** for Henry Marquand. ***Model D Pianoforte and Stools,*** c. 1884-87. Oak, ebony, sandalwood, cedar, boxwood, ivory, coral, mother-of-pearl, copper, brass, pewter and parchment. Access. No. 1997.8. Coll. The Clark Art Institute, Williamstown, MA.

for export to the Manhattan mansion of financier Henry Marquand. It found its way back to London, where it was purchased at auction and then returned to this country. It's now in The Clark Art Institute in Williamstown, Massachusetts. So, it is a great example of a work associated with the gilded age in New York.

All of these objects were acquired from abroad in compliance with CITES in the period and under the circumstances that Marcus Asner addressed. They were all acquired during the last twenty years by American museums, and without a museum exception, we would not be able to continue to acquire these things, which I would argue are part of our mission as museums to exhibit.

Musical instruments are another area of the arts affected by the restrictions on ivory. A treble recorder with ivory bands that was made by Johann Heinrich Eichentopf in 1730 is currently on the market **(FIG. 7).** It is an example of something that couldn't be imported into the United States under the current rules.

When the order came out, a number of American orchestras were in Europe, and they were unable to bring their instruments back into the country, the

FIGURE 7. JOHANN HEINRICH EICHENTOPF. ***Treble Recorder with ivory bands,*** 1730. European priv. coll.

ruling came out that suddenly. Senator Gillibrand of New York, and others, were besieged by the orchestras to make exceptions so that the stranded instruments could come back. This issue actually affected me at the Frick, rather surprisingly. We have a 75-year-old concert program. A group of musicians from Europe that performed chose not to bring their personal instruments into the country because they weren't certain that they could get them through Customs. As a result, they went to a musical instrument dealer in New York the day before the performance, chose some instruments, and played on them. Although the review was positive, the critics wondered whether the fact that they were playing on instruments that were unfamiliar to them diminished the performance. This is another way, perhaps an unexpected way, in which the ivory rules can have a wide effect on culture. A passport system for musical instruments has now been proposed. It would allow a musician who goes abroad to have a passport for his instrument — a permanent record attached — for whenever he comes back. This involves a marking and ID system, problematic for art objects. Museums prefer not to do destructive tests on objects, and we also prefer not to mark them, if possible.

FIGURE 8. CHARLES PAUL JÉRÔME DE BRÉA (French, ca. 1739-1820). ***Benjamin Franklin after a Painting by Greuze of 1777,*** 1777. Ivory miniature. 3 ⅜″ x 2 ¾″. Access. No. 68.222.9. Gift of J. William Middendorf II. Coll. The Metropolitan Museum of Art.

> "The issue becomes the definition of *de minimis.* What is the maximum amount of ivory that should be allowable as an exception to the rules?"

Ivory is a component in classes of objects that may surprise you and don't necessarily come to mind. Portrait miniatures, for example, were all the rage from the sixteenth through the nineteenth centuries. Many of them were done on ivory, because it can be smoothed to a very clean, hard, durable surface. This *Portrait of Benjamin Franklin* **(FIG. 8),** which was made in Paris by Charles Paul Jérôme de Bréa in 1777, was imported to this country some years ago. Most people wouldn't recognize it immediately as a work of ivory, but, in fact, most portrait miniatures are on ivory, and it raises the question of how much the ivory contributes to the value. Obviously, this is a painting, and its value is primarily in the skill of the painter, but physically most of the object is ivory, so the issue becomes the definition of *de minimis.* What is the maximum amount of ivory that should be allowable as an exception to the rules?

I want to turn to exhibitions I've worked on in New York. One was *Princely Splendor: The Dresden Court 1580–1620,* an exhibition in 2004-2005 that was the first exhibition to focus on the Renaissance in Dresden. It was a traveling show that I worked on with my colleague Wolfram Koeppe. It came to the Metropolitan Museum and went on to Hamburg and Rome. The exhibition highlighted the Kunstkammer and Wunderkammer, that is to say, art collections and collections of curiosities from the natural world amassed by the Electors of Saxony. This was a period of great fascination in the natural world, of classifying it, and of learning about other cultures. People would collect anything from narwhal to coral as great wonders of the natural world. It was also a moment of competition between artists and nature, so turned ivory, like this piece made by Georg Wecker in Dresden in 1586, is a perfect

FIGURE 9. GEORGE WECKER. ***High Cover Cup Topped by Two Smaller Cups,*** 1586. Turned ivory. Approx. ht: 20 ¾″. Part of the exhibition "Princely Splendor." Coll. Staatliche Kunstsammlungen Dresden.

cabinet of curiosity object **(FIG. 9)**. It's turned and graduated, so it gets smaller and smaller as it goes to the top. It appears to be a single piece of ivory, but is actually several parts joined by bayonet mounts. Turned ivory was an extremely exacting form of art that even the Elector August of Saxony, the ruler, practiced, learning from Georg Wecker how to do it.

It has been proposed that traveling exhibition certificates could be applied to exhibitions, to help with the regulatory issues concerned with ivory and other restricted materials. This is something that can be done relatively easily for exhibitions that come from one source. The couple of hundred objects in the *Princely Splendor* exhibition all came from the Dresden museums. It's easier from a compliance point of view to get all of the certificates when they all come from one institution.

Another exhibition that I worked on provides a different kind of example. Called the *Art of the Royal Court: Treasures in Pietre Dure from the Palaces of Europe,* the exhibition was at the Met from July to September 2008. It was the first exhibition ever in the United States on the topic of hard stones — pietre dure — that have been carved and put into furnishings and the decorative arts, and the first exhibition *ever* to explore the international range of this topic, beyond Italy to other countries such as Sweden. It won the *Apollo Magazine* exhibition of the year, so it was a very important exhibition. Most of the objects had nothing to do with ivory, but one very important object did **(FIG. 10)**. It's a tabletop with Moorish-style decorations made before 1557 by Bernardino di Porfirio da Leccio and designed by the famous Florentine artist Giorgio Vasari. It was a critical work for the exhibition because it is a very rare example in Florence of hardstone work before the official workshop — the Opificio delle Pietre Dure — was established in the 1580's. This was a sort of state-sponsored workshop for the creation of these hardstone objects. The tabletop includes ivory, which is quite rare for these objects, inlaid in ebony wood. The colored stones are jaspers. The tabletop raises the question again of *de minimis*, the proposition that if an object has less than 200 grams of ivory, that certain exceptions from the proposed regulations may apply. The Association of Art Museum Directors proposed a broader *de minimis* definition that might be as much as twenty percent by volume or surface measurement, but with an object like this, it is very

FIGURE 10. BERNARDINO DI PORFIRIO DA LECCIO. ***Tabletop with Moorish-style decorations,*** before 1557. Design by Giorgio Vasari. Ebony, ivory and jasper. Diam: 60 ⅜″. Coll. Banca di Roma.

difficult to determine the amount of ivory. How do you measure something this convoluted? It's meant to be a complicated design. It's also a veneer within a carcass. So it might fall beneath twenty percent, I don't know. I raise the question as part of the complexity of museums dealing with these issues. This is the kind of object that we may have to exclude in the future from exhibitions in this country.

A very different kind of object is a vase **(FIG. 11)** by Pierre Gouthière, who was the greatest French eighteenth-century *bronzier.* It is primarily gilt bronze, but the lower part is white marble and the upper part is ivory. The Frick is organizing the first ever exhibition on Gouthière, which will be the definitive statement on him. There are only a relatively small number of pieces that are certainly by Gouthière, this being one. But it won't be in our exhibition because the private collector in Paris who owns it doesn't want to risk sending the vase to the United States given the uncertainty. So, this is another example of an exhibition that will be somewhat poorer because we can't show certain works by an artist.

FIGURE 11. PIERRE GOUTHIÈRE. ***Vase,*** ca. 1767. Ivory, marble, gilt bronze. Private coll., Paris.

Recently, the Frick sent an exhibition to the Mauritshuis at The Hague in exchange for a major loan exhibition from the Mauritshuis that came to the Frick. It was the first exhibition ever that the Frick sent to Europe. We wanted to include a clock for which the case was made between 1690 and 1700 in France by André-Charles Boulle, one of the great cabinetmakers of that period **(FIG. 12).** It has no ivory whatsoever on the exterior, but as we were taking it apart for condition check, we found a tiny piece of ivory as part of the inner works. So we removed the clock from the exhibition checklist and had to find a replacement, because while we could legally export the clock to Europe, we were not certain that we could re-import it to the United States under the circumstances. So, our first-ever traveling exhibition was somewhat poorer because we couldn't send a great example of our collection.

FIGURE 12. Movement by **THURET,** case by **ANDRÉ-CHARLES BOULLE** (1642-1732). ***Barometer Clock,*** ca. 1690-1700. Ebony, turtle shell, brass, gilt bronze and enamel. 45 ¼″ x 23 ⅛″ x 10 ¼″. Bequest of Winthrop Kellogg Edey. Access. no. 1999.5.148. The Frick Collection.

All of the works I've discussed are at the highest level of quality, and all are over a hundred years old. I believe it is in the public interest in museums to continue to acquire and exhibit these kinds of objects, and I hope that in regulating ivory, accommodations can be found to continue these activities.

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STRENGTHENING U.S. IVORY CONTROLS

CRAIG HOOVER*

"During the period between 2010 and 2012, the African continent lost more than 100,000 elephants to poaching and rampant illegal trade in elephant ivory."

Let me start by underscoring why the United States needs to strengthen its ivory trade controls. Certainly, the U.S. government is not taking restrictive actions because we want to control the antiques trade or because we are primarily concerned with regulating artwork or musical instruments. We are doing it because during the period between 2010 and 2012, the African continent lost more than 100,000 elephants to poaching and rampant illegal trade in elephant ivory **(FIG. 1)**. Chad, for example, in northern Central Africa, now has fewer than 500 elephants. It has lost ninety percent of its elephants in the past decade. More than sixty percent of Africa's forest elephants have been killed illegally in the past ten years. Tanzania, a country that until recently had the largest elephant population in Africa, lost sixty percent of *its* elephants in five years. That's more than sixty-thousand elephants killed to supply the illegal trade in ivory in Tanzania alone. So we are now seeing entire landscapes devoid of elephants, with the exception of carcasses.

As most people are probably aware, China is the largest market for the illegal ivory trade, followed by countries like Thailand and Vietnam. But the U.S., too, has a large domestic market. This has been demonstrated both through our own Fish and Wildlife Service investigations as well as through investigative market surveys conducted by nonprofit organizations.

Another reason we need to take action to shore up our ivory trade controls here at home is that it puts us in a better position to push China, Vietnam, Thailand, and other major ivory-consuming countries to take stronger actions, as has been demon-

FIGURE 1. The African elephant, a threatened species.

* Craig Hoover is Chief, Division of Management Authority, U.S. Fish and Wildlife Service.

WHY?
By addressing our controls, we are better positioned to push China, Vietnam, Thailand, and other major ivory consumer countries to take stronger actions.
Ivory trade: a grim picture
The illegal trade in African elephant ivory has been skyrocketing, with most shipped to Asia from east African ports. Most conservationists believe that allowing a legal trade would only worsen the crisis.
56 Total tons of ivory seized, 2009 to 2014
Abidjan
Lomé
Douala
Mombasa
Zanzibar
Dar es Salaam
Pemba
Beira
Durban
Cape Town
Colombo
Port Kelang
Singapore
Haiphong
Hong Kong
Elephant range
Area of heavy poaching
African trafficking hot spot
Asian transshipment hub
Sea ports
Shipping lanes

FIGURE 2. Map showing illegal African elephant ivory trade routes. Ph.: National Geographic.

strated in the last few years **(FIG. 2).** We have seen Thailand amending and strengthening its domestic laws and imposing a registration scheme wherein all ivory in Thailand has to be registered with the government, while China has announced a one-year ban on the import of ivory. On his recent visit to the U.S. (September 2015), President Xi, in a joint announcement with President Obama, indicated that China would phase out its domestic ivory market over the next year. That is something we never thought we would hear the Chinese say, and it is, without question, partly a response to U.S. leadership on this issue.

PREVIOUS REGULATORY REGIME

I will now speak about the regulatory regime that, up until very recently, we have had in place to control the elephant ivory trade, and, in particular, the African elephant ivory trade **(FIG. 3).** This includes an import moratorium, in place since 1989 under the African Elephant Conservation Act. It also includes trade controls through the Convention on International Trade in Endangered Species (CITES), including the uplisting of African elephants to Appendix I and, essentially, a closure of international commercial trade, with some exceptions, since 1990. As Marcus Asner described, we also have a special rule under the Endangered Species Act that until now has focused primarily on import and export, leaving the United States a largely unregulated domestic trade in African elephant ivory, with the exception of Asian elephants, which, as he noted, are endangered and have been regulated under the Endangered Species Act since the 1970's. All

Previous Regulatory Regime
✓Import moratorium since 1989, with enforcement discretion.
✓CITES controls – African elephant listed in Appendix I in 1990.
✓Endangered Species Act – Threatened with a Special Rule that largely focuses on import/export.
✓A largely unregulated domestic trade in African elephant ivory.

FIGURE 3. The previous U.S. ivory regulatory regime.

import-export and interstate commerce in Asian elephants is prohibited, with the exception of bona fide antiques.

A NEW, GOVERNMENT STRATEGY

In July 2013, President Obama issued Executive Order 13648 on Combating Wildlife Trafficking. In February 2014, the President signed a national strategy for combating wildlife trafficking that included a holistic government approach to addressing the issue **(FIG. 4)**. One of the elements of that comprehensive strategy included an announcement that we would impose a near-total ban on elephant ivory trade. In order to do so, we had to take a number of actions, and we are still in the process of taking those actions.

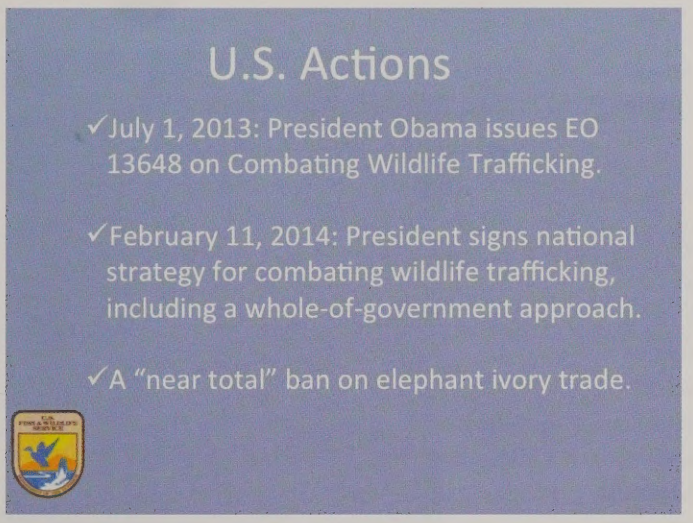
U.S. Actions
✓July 1, 2013: President Obama issues EO 13648 on Combating Wildlife Trafficking.
✓February 11, 2014: President signs national strategy for combating wildlife trafficking, including a whole-of-government approach.
✓A "near total" ban on elephant ivory trade.

FIGURE 4. The new U. S. strategy for regulating the trade in elephant ivory.

First, we had to reiterate the 1989 import moratorium and to amend our own enforcement discretion policy, so that we are now prohibiting all commercial imports of African elephant ivory, regardless of the age of that ivory. That action is largely due to a number of examples of ivory that had been disguised to look old so that it could be smuggled into the U.S. market and sold as antique or old ivory. We also now allow only a very narrow class of non-commercial African elephant ivory imports. These include musical instruments for performances, traveling exhibitions such as museum specimens, and people moving their household items or importing an inheritance from relatives.

We have also strengthened our domestic controls through our CITES regulations, particularly by prohibiting the sale within the U.S. of African elephant ivory unless that ivory can be demonstrated to have been imported prior to 1990 or imported with a CITES pre-Convention certificate.

Those are the actions we have already taken, which essentially close the U.S. market to commercial imports, permit only limited types of non-commercial imports of African elephant ivory, and strengthen domestic controls through our CITES regulations. But, in order to achieve what the President announced, which is a near-total ban on elephant ivory trade, we also proposed to amend the Endangered Species Act Special Rule for the African elephant. A sixty-day comment period was put in place regarding the Proposed Rule, during which we received more than one million public comments.

THE PROPOSED RULE[1]

The Proposed Rule proposes to limit sport-hunted trophy imports, which are currently regulated through CITES but are not otherwise limited with regard to number of trophies that may be imported. We also propose to prohibit interstate commerce and export of ivory, with certain exceptions for non-commercial purposes, such as musical instruments, traveling exhibitions, inheritances, and household moves. We also have proposed exceptions for interstate commerce and export of bona fide antiques and items that contain *de minimis* amounts of ivory. The intent here is to create exceptions for those items that we believe are not contributing to elephant poaching and to the illegal

[1] Editor's Note: As previously stated, the Final Rule, very similar to the Proposed Rule, was published in the Federal Register on June 6, 2016 as IFAR was going to press. It will go into effect on July 6, 2016.

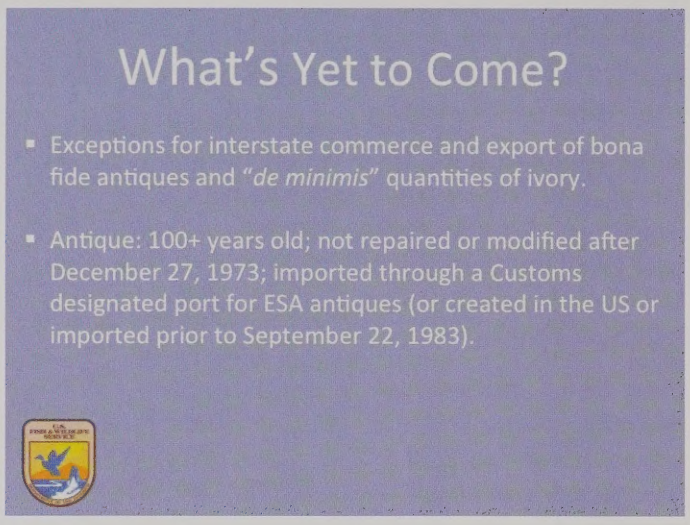
What's Yet to Come?
Exceptions for interstate commerce and export of bona fide antiques and "de minimis" quantities of ivory.
Antique: 100+ years old; not repaired or modified after December 27, 1973; imported through a Customs designated port for ESA antiques (or created in the US or imported prior to September 22, 1983).

FIGURE 5. Proposed exceptions for interstate commerce and export of African elephant ivory.

ivory trade, while providing us with prohibitions that address the activities that *are* contributing to poaching and illegal trade.

ANTIQUES

Let's look further at the two exceptions. For antiques and items with *de minimis* amounts of ivory, the Endangered Species Act itself defines an antique; the definition is built into the statute **(FIG. 5).** An antique is an item that is at least 100 years old measured from the current date. It is a shifting date. To qualify for the exception, the antique cannot have been repaired or modified with an endangered species part after December 27, 1973. If the item was imported into the U.S. after September 22, 1982, it must have been imported through a Customs-designated port for Endangered Species Act antiques.

DE MINIMIS IVORY

The definition of *de minimis* ivory that we have proposed would include those items that were imported prior to January 18, 1990, when the moratorium went into effect, or imported with a CITES pre-Convention certificate. Moreover, the ivory is a fixed component of a larger manufactured item and is not a primary source of that item's value. The ivory is not raw, the manufactured item is not made wholly or primarily of ivory, and the ivory component itself weighs less than 200 grams. How would we assess whether an item contains 200 grams of ivory or 210 grams? The 200 gram threshold was intended to include a number of objects that we seek to exempt from the prohibition, such as most musical instruments, older pistols with ivory pistol grips, and other items that we have discussed with stakeholder groups. We don't intend to take items apart in order to measure the amount of ivory. If the Final Rule retains a *de minimis* exception, we will provide additional guidance about how we would implement it.

"We don't intend to take items apart in order to measure the amount of ivory. If the Final Rule retains a *de minimis* exception, we will provide additional guidance about how we would implement it."

CONCLUSION

As I mentioned previously we received more than a million comments from the public regarding the Proposed Rule, within which are hundreds of substantive and detailed observations. We intend to have a Final Rule in place by mid-2016. When we provide that Final Rule, we will respond to all of the substantive comments we have received. We believe that both the actions we have taken to date, as well as the action we have proposed, will ensure that the United States is not contributing to elephant poaching and the illegal trade in ivory, and that we are well positioned to push other nations to address their domestic ivory markets.

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COMPLYING WITH THE IVORY REGULATIONS

MICHAEL MCCULLOUGH*

"Federal law has rules you have to follow, but there is no required federal permit for interstate trade. In New York, however, you must get a permit to sell."

FIGURE 1. MATTHIAS STEINL, *Pluto and Proserpina,* c. 1690-1700. Ivory with an ebony-veneered base. Priv. coll. Ph: Michael Bodycomb.

In 2014, my partner Bill Pearlstein and I put together the Art and Antiques Trade Group, which was comprised of the two major decorative art dealer organizations based in New York, NAADAA and the Art & Antique Dealers League; many of the top dealers in decorative arts in the United States; some of the auction houses, such as Bonhams and Skinner; and several Asian art collectors and dealers.

The Art and Antiques Trade Group went to Washington and met with Craig Hoover and other officials at the Fish and Wildlife Service. Around the same time, we visited the New York State Department of Environmental Conservation (DEC) and met with the DEC law enforcement policy people.

The point of the trade group, and the art market in general, was to address important art objects like the Baroque ivory carving of *Pluto and Proserpina* **(FIG. 1),** which was on loan to the Frick in 2014. The beautiful piece left the United States and can no longer come back into the country for commercial purposes, so it is an example of what the art trade was lobbying about. It is important as an example because it is a documented piece; its maker and approximate date are known; and it is an important historical object with art historical significance. The point the art trade was making to the Fish and

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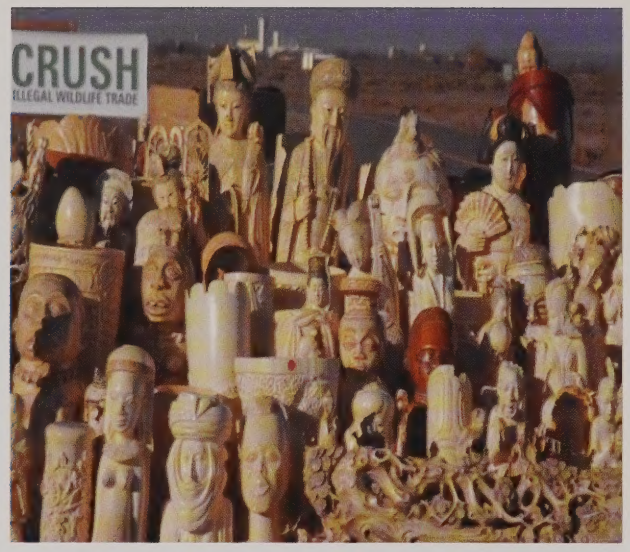

FIGURE 2. Ivory pieces destroyed in the U.S. Fish and Wildlife Service Ivory Crush of November 2013.

Wildlife Service and the DEC was that the art trade is interested in documented art historical objects.

On the other end of the spectrum is the illegal ivory trade, made up of ivory carvings, mostly with an Asian or African motif **(FIG. 2),** some of which are very crude reproductions of Asian and African historical ivory pieces. Anyone with expertise would tell you right away by looking at the latter objects that they are not antique, that they have no art historical relevance, and they should not be imported or traded in the United States. That is the exact point being made to the government — that these are the types of things we *all* agree should not be traded, as opposed to the Baroque *Pluto and Proserpina,* which *should* be traded.

With that introduction, I want briefly to summarize some of the federal rules governing ivory and suggest ways to comply with these rules if you're buying, selling or loaning artwork that contains ivory, and then discuss New York State rules.

The laws we've been addressing are the Endangered Species Act of 1973; the Director's Order 210, including the Appendix and two Amendments; the Proposed Rule, which, for the purpose of this presentation, I'm going to assume will be the same as the Final Rule; and CITES.

As has been discussed, there is a big difference between commercial and non-commercial trade in ivory under these rules **(FIG. 3).** The standard of proof for establishing the species identification of a work coming into the U.S. or a state is "best available evidence," so if you are importing an object or trading in an object in interstate commerce, you have to use "best available evidence" to determine the species of the material in the object. That's not true only for ivory, but for every other endangered species, such as whalebone, tortoise shell, feathers, bird material, anything else that's on the Endangered Species Act List. Also, the Fish and Wildlife Service has the burden of disproving your species identification, so if you are importing and exporting objects, the Fish and Wildlife Service can question whether your species identification is correct.

Thus, if you are trading in these materials, you need the counsel of both an art expert and a materials expert, who might not be the same person. We'll return to this later.

There is a difference between Commercial and Non-Commercial Trade in Endangered Species:

Commercial = Acquisition.

- Held in the course of a commercial activity after the date the ESA entered into effect (December 28, 1973) or the date the final rule listing the species under the ESA was published in the Federal Register, whichever is later.

Non-commercial = Donation or Loan.

- Not held in the course of a commercial activity after the date the ESA entered into effect (December 28, 1973) or the date the final rule listing the species under the ESA was published in the Federal Register, whichever is later.
- The Proposed Rule makes clear that a donation to a museum, even if there is a tax advantage to the donor, is not a commercial transaction (technically, only African elephant ivory).

FIGURE 3. Differences between commercial and non-commercial trade.

NON-COMMERCIAL TRADE IN IVORY

First, I will address non-commercial trade in ivory, which is a little more liberal than commercial trade **(FIG. 4).** Yes, you *can* import African elephant ivory for non-commercial purposes. Under the ESA it has to be pre-Act and under the Director's Order and Final Rule (the Proposed Rule), it needs to qualify for one of the exempt categories, two of which are important to the art market: that the ivory is part of a musical instrument or part of a traveling exhibition. The same is true for exports. Movement *within* the United States for non-commercial purposes is not regulated. In other words, non-commercial interstate commerce in the United States for legally acquired ivory is allowed.

Non-Commercial Trade in Ivories

African Elephant Ivory:

- YES: non-commercial import of worked African elephant ivory that:
  - — Under ESA, is pre-Act or antique; and,
  - — Under DO210 and the Final Rule, was legally acquired and removed from the wild prior to February 26, 1976, and is either:
    - Part of a musical instrument; or
    - Part of a traveling exhibition.
- YES: non- commercial export of worked African elephant ivory that:
  - — Under ESA, is pre-Act or antique; or,
  - — Under the Final Rule, was legally acquired and removed from the wild prior to February 26, 1976, and is either:
    - Part of a musical instrument; or
    - Part of a traveling exhibition.
- YES: non-commercial interstate and intrastate movement within the United States of legally acquired ivory is allowed.

FIGURE 4. Rules for non-commercial trade in African elephant ivory.

Non-Commercial Trade in Ivories

Asian Elephant Ivory (and All other ESA-listed species not restricted elsewhere):

- YES: non-commercial import of Asian Elephant ivory that:
  - — Is pre-Act:
  - — Not held for commercial purposes on or after June 14, 1976.

Or

- — Is an ESA antiques:
  - Outside expert's ESA antique affidavit (at least 100 years old and not restored with restricted material since 12/28/1973);
  - Outside expert's determination of species;
  - CITES pre-Convention certificate issued by the country of export, and,
  - Must be imported into the US through an antique port.

FIGURE 5. Rules for non-commercial importation of Asian elephant ivory (and all other ESA-listed species not restricted elsewhere).

More specifically, non-commercial imports of African ivory under the ESA are allowed if they are pre-Act materials or antiques. Under the Director's Order and the Final Rule (Proposed Rule), non-commercial imports are allowed if legally acquired and removed from the wild prior to February 26, 1976 and they are part of a musical instrument or traveling exhibition. But the travelling exhibitions must be loans. Non-commercial could mean either a loan or a gift. For purposes of import, however, it must be a loan. For export, it's the same rule. Loans work, if they're part of a musical instrument or a traveling exhibition, and they are ESA antiques or pre-Act material.

Asian elephant ivory, as already mentioned, is regulated in a slightly different way. It is protected under the Endangered Species Act, not under the African Elephant Conservation Act or Director's Order 210. So, for non-commercial imports, Asian elephant ivory is allowed if it's pre-Act or it's antique **(FIG. 5).** Those are the import rules.

Non-commercial export is similar — exceptions for pre-Act materials or antiques. Interstate trade is not regulated. The owner also needs an affidavit stating there was continuous possession in the U.S. since September 22, 1982 or that the ivory was legally imported after that with a CITES pre-Convention certificate.

Because import of non-commercial Asian elephant ivory is regulated under the Endangered Species Act, the same rules also apply to every other endangered species. African elephant ivory, however, is slightly different. For commercial imports of all endangered species other than African elephant ivory, the material must be pre-Act or an antique.

To establish antique status, you need an outside expert — a third party — to determine that it's an antique. Secondly, you need a determination of species, which usually requires a materials expert. You also need a CITES pre-Convention certificate from the country of export, and it must be or have been imported through an antique port.

Non-commercial export is very similar to import, with the same exceptions for pre-Act or antique ivory. For antique material that's being exported, there's an additional requirement; the owner has to establish that the object has been in possession of somebody in the United States since September 22, 1982 and that it was not subsequently exported and reimported. Alternatively, it has to have been legally imported after 1982 with the CITES permit. Moreover, you need an outside expert's affidavit attesting to its antique status, and you need a pre-Convention CITES certificate from the U.S. Fish and Wildlife Service. So if it's an export, you need all that documentation and you have to apply for your CITES Certificate from the U.S. Fish and Wildlife Service.

COMMERCIAL TRADE IN AFRICAN ELEPHANT IVORY

Commercial trade is different, with stricter rules. There is no commercial import into the United States under the Director's Order 210 for African elephant ivory. That is now banned. You can, however, commercially *export* antiques. You can also trade in interstate commerce in antiques or in objects with *de minimis* amounts of ivory **(FIG. 6).**

Commercial Trade in Ivories

African Elephant Ivory:

- NO: import into United States under DO210.
- YES: commercial export of ESA antiques.
- YES: interstate commercial trade of ESA antiques or *de minimis* amounts.

FIGURE 6. Commercial trade in African elephant ivory.

Commercial exports of African elephant ivory need an affidavit stating that the object has been in the United States since September 22, 1982 or legally imported with a CITES certificate after that. Its continuous possession in the United States has to be documented with photographs, insurance records, appraisals, and so on. You also need an outside expert to verify that it is an antique over one hundred years old and has not been restored with any new endangered species material since December 1973, the date the Endangered Species Act was passed. And, finally, an outside expert must determine the species or material.

Interstate commerce for African elephant ivory is a little trickier **(FIG. 7).** You need, again, continuous possession in the U.S. since 1982, or legal import thereafter. You need documentation supporting that possession, and the documentation has to be something significant, such as a dated purchase receipt, a photograph or inventory record that can be dated, an insurance record, an appraisal. You need the outside expert to certify antique status or the *de minimis* amount of ivory — that is, less than 200 grams, and then you also need determination of species.

If you are in a state with no state regulations, you follow the federal rules, which govern interstate trade in these materials. If you are in a state that has regulations, like New York, then you must follow *both* the federal and state rules.

Commercial Trade in Ivories

African Elephant Ivory:

- YES: limited interstate commercial trade of ESA antiques or *de minimis* amounts:
  - — Owner affidavit stating continuous possession in US since prior to 9/22/1982 (or legally imported thereafter with a CITES pre-convention certificate); and,
  - — Documentation supporting continuous possession in US since prior to 9/22/1982, such as a dated: purchase receipt, photograph, inventory or insurance records, appraisals, etc.; and,
  - — Outside expert's ESA antique affidavit (at least 100 years old and not restored with restricted material since 12/28/1973) – or– expert's ESA *de minimis* calculation (that ivory comprises less than 200 grams) and meets the other *de minimis* requirements; and
  - — Outside expert's determination of species.
- If you are in a state where there are no regulations, then you must follow the Federal rules. If you are in a state with regulations, then you must follow both Federal and State rules.

FIGURE 7. Interstate commercial trade in African elephant ivory.

NEW YORK STATE RULES

New York State's rules are strict.[1] The Art and Antiques Trade Group went to Albany to talk to the Department of Environmental Conservation and the Governor's Office about trade within New York State. To trade in African elephant ivory in New York **(FIG. 8),** you need to identify the species, first. Second, you have to determine that the material is antique, and — a new requirement, for New York — you need an expert to determine that the object contains a *de minimis* amount of ivory, which is defined as less than 20% of the object's total weight or volume.

This is for intrastate sales only because the federal Endangered Species Act preempts state legislation in this area. So the ESA trumps New York State rules on this point. The Endangered Species Act already requires that the ivory be one hundred years old, so the New York State rule is consistent with the ESA on that point. But New York's 20% rule is in conflict with the ESA. Therefore, if you're trading interstate, between states, New York will allow you to sell material from New York to another state without it meeting the 20% *de minimis* requirement. However, the permit will state that you cannot display the ivory in New York. In other words, it can be sold remotely — an image can be put on the Internet, for example; you can put it in a catalogue, but you cannot display the object in New York State.

Commercial Trade in Ivories

African Elephant Ivory: New York Commercial Trade

- Outside expert's species ID;
- Outside expert's ESA antique affidavit (at least 100 years old;
- Expert's NYS de minimis calculation (that ivory comprises <20% of object's total, calculated by volume or weight)[for intrastate sales only]; and,
- NYS DEC license application with expert's affidavit and supporting documentation.

FIGURE 8. New York State commercial trade in African elephant ivory (also applies to Asian elephant ivory).

For New York, you also need a license, a permit to sell ivory in New York. Federal law has rules you have to follow, but there is no required federal permit for interstate trade. In New York, however, you must get a permit to sell. The difficulty with the permit is that the New York State DEC has been very tough on determining the age, the hundred-year rule, and practically speaking, unless your object is signed, or you have very strong evidence that the object is antique, you will not get the permit. So if you have an expert say, "this is a two-hundred-year-old object," without any other documentation, without the signature on

"Commercial trade is different, with stricter rules. There is no commercial import into the United States under the Director's Order 210 for African elephant ivory. That is now banned. You can, however, commercially *export* antiques, You can also trade in interstate commerce in antiques or, in objects with *de minimis* amounts of ivory."

[1] Environmental Conservation Law (ECL) '11-0535-a, enacted by Chapter 326 of the Laws of 2014 (effective August 12, 2014).

the object, without something more, the expert's statement is not enough, generally speaking. So, New York State is tougher than the federal government on documenting age.

COMMERCIAL TRADE IN ASIAN ELEPHANT IVORY

To finish up, federal rules for commercial trade in Asian elephant ivory follow the Endangered Species Act **(FIG. 9).** Commercial *imports* into the United States are allowed, as are commercial exports and limited interstate commercial trade. For imports of Asian elephant ivory, again, you have to follow the Endangered Species Act rules: you need an affidavit saying that the object is over one hundred years old and has not been restored since 1973; you need an outside expert to determine the species; and you need a CITES export permit from the country of export.

Commercial Trade in Ivories

Asian Elephant Ivory (and All other ESA-listed species not restricted elsewhere):

- **YES:** commercial import ESA antiques into United States.
- **YES:** commercial export of ESA antiques.
- **YES:** limited interstate commercial trade of ESA antiques.

FIGURE 9. Commercial trade in Asian elephant ivory (and all other ESA-listed species not restricted elsewhere).

For commercial *export* of Asian ivory (and all other ESA-listed species not otherwise restricted) from the United States, you need: an owner's affidavit of continuous possession since 1982; documentation supporting that continuous possession; an outside expert's ESA affidavit saying the object is an antique, over one hundred years old and not repaired since 1973; determination of species, which is always required; and a CITES pre-Convention certificate from the U.S. Fish and Wildlife Service.

Last but not least, interstate commerce for Asian elephant ivory also follows the ESA rules, the ones just discussed above: continuous possession, proof of it, determination of species, and an expert's antique affidavit.

For New York State, the rules are the same as the State rules for African elephant ivory, no difference in law between the two species. You have to identify the species; it has to be antique. For intrastate sales, the ivory has to be *de minimis*, less than 20% of the object. For interstate sales, between states, that doesn't apply. You also need a permit from the DEC to sell Asian elephant ivory.

MAMMOTH

Let me take a moment to speak of mammoth, an extinct species of elephant. It is not regulated under the federal rules because the Endangered Species Act only regulates endangered or threatened species, not extinct species. But New York State does regulate it. Thus, to trade mammoth ivory in New York State, you follow the same rules as elephant ivory. To sell mammoth in New York requires species identification. It is possible for an expert to determine whether something is mammoth, as opposed to elephant ivory, because there are differences, but all the requirements are the same as elephant ivory; the object itself has to be antique, not repaired since 1973; you need to meet the *de minimis* calculation, and you need to apply for a permit to sell the object in New York State.

A SUGGESTION

There are still some art dealers in New York State who haven't gotten this message. Not responsible dealers; not the people at an IFAR program, or the people who work in the Art and Antiques Trade Group. Responsible dealers follow the rules. The people who have not been following the law are the few bad apples in the art community and the people who sell those tourist-type ivory carvings in tourist shops in Midtown. Some people have gone to jail for it. And that is the problem. The reason why the Fish and Wildlife Service and the New York State DEC have been so tough on trade in these materials is that people have recently carved illegal ivory and have tried to trade it as antique, by putting the object in an oven, staining it to make it look old, and so on. These techniques are common.

The Art and Antiques Trade Group had a solution to that. We told both the federal and state governments that we believe there should be a limited trade of bona fide ivory antiques of art historical significance. We suggested that we create an advisory body to the Fish and Wildlife Service, and also to the DEC, made up of experts in these materials from all over the country, who can certify that everything imported or exported is a bona fide antique of art historical significance. *That* is the solution to the import ban. The import ban in African ivory could be taken away if the Fish and Wildlife Service could have some degree of comfort that the objects being imported are actually antique. This is not an idea that has been accepted; however, I think it is a good solution to the problem. It would cut down on the number of objects being imported. Only objects that are certified antique by experts in the field and have historical significance and can be documented should be imported.

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IVORY BAN

Q & A

Q The law makes an exemption for musical instruments, but why is a violin or a bow more sacred than, for example, a piece of Ruhlmann furniture? I was in a cabinet shop recently where the ivory in a piece of Ruhlmann furniture, a piece of ultimate quality and importance, was being removed and replaced with white plastic. Why are the violins and bows in a separate category?

A **Ian Wardropper (IW):** We should clarify for people that the French furniture designer Émile-Jacques Ruhlmann (1879-1933) practiced in the 1920's. His work doesn't qualify as antique, so there are great masterpieces that are not subject to the exemptions.

Q It will be an antique in five years.

A **IW:** Okay, if you can wait long enough.

Q We have been talking about imports and exports, but what about an American miniature made in 1770 by Charles Willson Peale, where, of course, there would be no record of a port of entry or anything like that?

A **Craig Hoover (CH):** I can speak to that. If an item is one hundred years old or older and it can demonstrably be shown to have been produced in the United States, then it can qualify as antique. The Director's Order 210 language, with regard to the definition of antique under the Endangered Species Act, makes clear that we will only enforce the antique port requirement if the object was imported after September 22, 1982, when those ports were designated. So, certainly, an item that was crafted in the United States can qualify as antique and can meet the antique exception under the Endangered Species Act.

Q In the insurance industry, we are struggling with the question of how to insure ivory objects that are going out on loan. How would you appraise them? What value would they have?

"We will only enforce the antique port requirement if the object was imported after September 22, 1982, when those ports were designated. So, certainly, an item that was crafted in the United States can qualify as antique and can meet the antique exception under the Endangered Species Act."

A **Michael McCullough (MM):** It's a complicated issue, because appraisers normally look to the market for comparables. There is a certain portion of the market now that's undocumented. As we mentioned, antique objects

that were made in another country and were imported can be traded, but only if they are documented. You have to show legal importation; you have to show that the object has been in continuous possession in the United States. If you can't document that, the objects can no longer be sold in interstate commerce. The problem is that many of the objects that were sold before 2014 might not be able to be sold today. An appraiser has the problem of determining whether the comparable object is legitimate. I suggest you speak with Linda Selvin, Executive Director of the Appraiser's Association of America, who is in the audience. The Appraiser's Association was part of the Art and Antiques Trade Group that lobbied the Fish and Wildlife Service and the DEC, and it played a huge role in helping to clarify some of these issues.

Marcus Asner (MA): Basic economics tells you that the ivory ban is going to impact the value of things. Working through this puzzle that we tried to lay out is going to be difficult. I'll give you an example that I tried to deal with in private practice. A client purchased a fifteenth century ivory figurine at auction in Europe. It was a commercial purchase made in December 2013. The item was still overseas. He wanted to bring it back to the United States. The Director's Order came down in February 2014, and, try as I might, I cannot get that figurine into the United States. Does that impact the value? Of course it does. Now, how will you appraise that? That's tough.

IW: It's not unlike, say, an object that's in Italy and cannot leave Italy. Its value is quite limited, as only people in Italy would buy it; whereas if it could go anywhere, its value might be much higher. The same is true for ivories now.

MA: One of the things that I've been pressing for on the Advisory Council – we have no real power, only soapbox power – is that they enact an equitable way of dealing with some of these issues. The Department of Interior has something called a remission process, where essentially they can give you mercy if you show that you acted in good faith. I would like that to be more systematized, and I think it would do the Fish and Wildlife Service a lot of good. When I raised this point at the last Advisory Council meeting, Craig Hoover was very skilled at avoiding the issue, because it really isn't his authority to make that decision. But it is something that I think would be useful as a way around this, like a court of equity versus a court of law.

Q [Sharon Flescher (SF)]: Since museums, as non-commercial entities, have certain prerogatives under the new rule and will be able to accept donations of ivory objects, can the person who makes the donation take a tax write-off, even though the object is technically not marketable? How will that work?

A IW: That's a complicated question, but it depends on the object. Its value may be less because of the current rules. If it was in a completely open market, then presumably the highest bidder would get it, and it would add value. There hasn't been enough time, really, to determine if this is going to have an impact. But in the museum world, we're glad that the law will allow people to make donations and that these objects can continue to come into a public forum, and, for the most part, will be taken out of trade in the future. That is part of the intent of the law.

Q I'm an art historian, new to this debate. But it does seem to me that the tail is wagging the dog here. I don't understand why illegal activity is controlling what would otherwise be a legal activity. In other words, it wouldn't make sense to say we shouldn't have painting because there's forgery; we shouldn't have sex because there's illegal sex. One should find a way, as one panelist said, to regulate, rather than to prohibit all trade. Can someone address that?

SF: Does anyone want to tackle that question? Why *should* the lowest denominator – the cheaters – determine what everyone else does?

A MM: I think Craig should comment on this if he wants to. But art dealers have, in fact, sold illegal ivory. The problem, as I mentioned, is that the government doesn't know the difference between antique ivory and non-antique ivory; they're not experts in this. Our solution was to create an advisory body, but, again, that's a complicated thing to do, and there is actually a very big trade in elephant ivory, a huge trade. So it is a complicated problem, and the fact is that the art market has played a role in this. Have the legitimate dealers played a role in this? No, the legitimate dealers have always followed the rules. But at the same time we have to recognize that this is a huge problem. The difference between the other examples the questioner gave and this problem is that elephants are dying and becoming extinct. That's the big difference.

MARCUS ASNER = MA
SHARON FLESCHER = SF
CRAIG HOOVER = CH
MICHAEL MCCULLOUGH = MM
IAN WARDROPPER = IW

MA: I agree with everything Michael said. In the law, there's always a conflict between bright line rules and particular instances where the bright line rules as applied lead to perverse results. I can come up with five hundred examples of that. All I can say is, I feel your pain. I get it. This is something that everybody is struggling with. It is plainly in the interest of the world for Ian Wardropper to get donations of important pieces of art. Nobody is claiming anything different. On the other hand, it's also in the interest of the world for Craig Hoover to prevent bad guys from bringing in new ivory by passing it off as antique. The government, because of administrative reasons and the reality of trying to enforce laws, draws bright line rules. Unfortunately, there are always going to be people who suffer by these. That is why my hope is that we can have an equitable way of dealing with things on an ad hoc basis and try to resolve them.

Q I'm in the auction world and want to make sure that we follow the law as closely as possible. But we can't make things so difficult that it is impossible to follow the law. One of the things that I find difficult is the rule about species determination. If an auction house has the in-house expertise to determine the age of something, the origin of something, whether it's been modified or not, and whether or not it's come into the U.S. legally, why can't we be the ones to determine what that species is, with all of the expertise that we've had over the years? To whom do we turn to do that? Also, does that still need to be a scientific analysis, or are there other methods now that are acceptable to the government to determine species, methods that aren't intrusive, aren't invasive, won't destroy the work, and aren't costly?

A **CH:** I am guessing that the questioner is referring to the Director's Order 210 language about third party appraisal. So in terms of the issue of complexity, I think we all agree that this is about as complex as you can get, at least in terms of wildlife law, and navigating the different rules for the different species and the different statutes. Part of that challenge is that Congress has given us both the Endangered Species Act and the African Elephant Conservation Act. We've also signed an international treaty called CITES, and so we have a number of different rules in play. One of our goals with regard to revising the Special Rule for the African elephant is to try to harmonize a bit more, to make the rules more consistent. Of course, if we want to be really consistent, then we would have a blanket prohibition, as we do with regard to the Asian elephant, with the exception of antiques.

With regard to the issue of third party appraisals, much of the Director's Order 210 criteria for identifying antiques was drawn from IRS rules. The objective with regard to third party appraisals was obviously to get away from someone having a financial interest in a particular outcome. But as Director's Order 210 is a policy document, it's a document that is subject to revision. It has already been revised twice, specifically to accommodate the concerns of stakeholder groups, and so there's certainly that possibility in the future. In addition, we will be revisiting the divisions of the Director's Order once we finalize the Special Rule for the African elephant because we are proposing regulatory changes that would differ from the Director's Order. So this is a discussion that we are happy to continue to have with those who are challenged by the conditions that we put on them.

IW: Getting back to the point of using expertise, I showed examples of medieval ivories in the Cloisters, in New York. Some of the greatest medievalists in the world work at that museum. It's their job to determine authenticity, age, the place where the object was made, and also its materials. I think some of the best experts are in museums. They are also in auction houses, certainly Sotheby's, Christie's, Bonham's, all of the auction houses in New York; some of the greatest dealers in the world are in this room. There is an enormous expertise and knowledge that can be brought to bear that answers the basic questions, if a means can be found to accept the expertise. The IRS supervises this. Museums have to be able to determine exactly what something is before we accept it into the collection, and that same expertise, I believe, can answer many of the questions that the Fish and Wildlife Service legitimately has about these objects.

"Basic economics tells you that the ivory ban is going to impact the value of things."

Q Dr. Wardropper, in the history of art, have tusks from other animals – walruses and rhinoceroses – been used in the same way, and if so, are materials from those animals going to come under this restriction, too?

A IW: Yes, a huge number of other bone and tusk material has been used. The objects I showed, as far as we know, are African ivory, but increasingly we are recognizing how many works of art were made from mammoth tusks. Quite often an object is assumed to be ivory until one looks more closely, and then it turns out to be walrus, bone or some other kind of material. Indeed, that's part of the problem; expertise has to be able to ascertain what the object is. That can be difficult. Experts – conservators at the American Museum of Natural History, for example – specialize in that kind of identification. There are also some scientific tests, but by and large, art historians in the field can also recognize the different types of materials.

MA: To throw some support to Craig Hoover here for a moment, the intent was very sincere. We were losing about a hundred thousand African elephants each year. We are not seeing that with other species to the same degree. I don't know whether there are particular species of walrus or other animals that are similarly in trouble, or whether Fish and Wildlife has difficulty distinguishing, as a practical matter, between the different types of ivory which would drive a bright line rule. But the impetus behind these rules was a crisis, a genuine fear that the African elephant wouldn't be around for much longer.

Q I saw in the press that they are actually removing the horns from rhinoceroses in order to preserve the animals, so that they won't be poached.

A MA: I'll give you a very perverted follow-up on that. Poachers are stalking the rhinos, and if they see a rhino where the tusk has been cut off, they kill it anyway, so they don't have to waste time stalking it again. It's a horrible world over there.

MM: Can I add one thing to that? Our program is about ivory, but this question of rhinoceros horn and other material is very important because New York State regulates the trade in rhinoceros horn the same way it regulates ivory and mammoth. If you are trading a rhinoceros horn, you're subject to the same rules I mentioned; you cannot sell objects within New York State that have over 20% of these materials. The purpose of the 20% is to knock out all of the free-standing carved objects from the market. They can be traded in interstate commerce, but not within New York State.

On the point of identification, Anibal Rodriguez from the American Museum of Natural History is an expert in these materials. He is a resource that people in the art market can consult to determine the species of material. There are studies being done right now on determining the difference between African and Asian elephant ivory. There are also people in this room, such as Ian Wardropper and the dealer Scott Defrin, who dedicate their lives to studying ivory and determining age of objects and materials. There is a lot of knowledge out there, but in fairness to the government, the government doesn't have this knowledge; it is in the private sector. The goal really should be, how do we get this knowledge from the private sector into the government?

Q How *do* you tell the difference between the different species? It is almost impossible without genetic testing, without an invasive test that would ruin an art object. As far as enforcement of the antique rules, it doesn't really matter if the ivory is *Loxodonta Africana* or Asian, or whatever. As long as it's antique and it can be proven, you really don't have to distinguish the species. We are only identifying genus as a general rule.

The New York law asks for a mammoth species. *Mammuthus* is just a genus; there are 13 different mammoth species, and I assure you no one has ever bothered to try to identify a species on a carved art object. It is an impossibility. The sample size required to do that type of testing is often larger than the pieces, so, at least for enforcement, even though the letter of the law states that you are supposed to find the species, it is absolutely impossible without ruining an object, in most cases. It is pretty easy if you have an entire tusk, and you can look at Schreger angles and measure them from the cross section. But even there, with African and Asian ivory, there's a crossover in the outside Schreger angles.

A MM: Look, we all know it's a complicated issue, but for commercial purposes, it does make a difference which ivory it is. If you talk to Andrew Pearlstein or John O'Halloran from Masterpiece International, who are experts in importing and exporting, they will tell you how that difference plays out. Practically speaking, best available evidence is the standard that you have to apply for determining species, but what that means – historical record or scientific testing – might differ from one object to the other.

Q I would love to know if there is scientific testing available, commercially, for people in this industry.

A MM: There is DNA testing available, and there are people working on this issue right now, as we speak. Practically speaking, I think scientific testing alone doesn't get you all the way there, it just doesn't.

Q My question is about the third party experts, and whether the increased stringency of the regulations may or may not affect their willingness to sign the affidavit, and whether there's any kind of indemnity for their opinion.

A MA: I'm going to guess, but indemnity would depend on the contract between the expert and the principal, and so you could try to arrange for that. I actually don't think that this will lead to a lot more liability, because experts deal all the time with things like provenance. You always have a certain amount of pressure on the expert. I imagine that same sort of model would apply. If anything, if this is going to continue to be a robust market, you will create a subcategory of experts in the particular field, and maybe that will be good for them, I don't know. Certainly, I think you would look as a model to the folks who advise on provenance.

Q SF: Craig, why is there an exemption for sport-hunting trophies?

A CH: Under the African Elephant Conservation Act, a sport-hunting trophy is the only exception to the moratorium. The Act explicitly forbids the Secretary from prohibiting the importation into the U.S. of sport-hunted trophies from elephants legally taken in an ivory producing country that has submitted an ivory quota. Through the Endangered Species Act and CITES, sport-hunting trophies are regulated. The intent was to ensure that sport hunting actually contributes to conservation. All of the other activities that we're talking about, with regard to antiques, musical instruments and other pre-existing ivory items, are at best conservation neutral. They are not contributing to conservation, and they are not necessarily undermining conservation. With regard to sport-hunting trophies, however, it is our position that a well-regulated, well-managed hunting program actually contributes substantial resources back to conservation, by paying for protected areas, by paying for rangers to protect populations, by supporting anti-poaching controls.

If you look at the countries that have done a good job of managing their elephants – Namibia, South Africa, Botswana – those are countries that have robust elephant populations, and, with the exception of Botswana, which closed its sport hunting very recently, they also have active sport-hunting programs, where primarily U.S. and European hunters pay tens of thousands of dollars to go hunting. That money goes back into conservation and wildlife protection.

MA: Let me put a point on some of the things we hear at Advisory Council meetings. Some of the poachers pay kids an incredibly small amount of money to shoot an elephant. I've heard amounts like fifteen dollars, twenty dollars, to shoot an elephant. If you have a robust game warden regulatory scheme, as we do in the United States with deer hunting or whatever, you end up putting the value back into the local community, and by increasing the value in the local community, the elephant becomes valued and the community helps police it. That at least is the theory. Obviously, people will debate about it. The biggest debate in the Advisory Council in this area is with respect to the countries that don't have a rule of law, where corruption is pervasive. Can you really have the sort of regulatory scheme that we have in the State of New York for deer hunting, in a country where you can bribe the game warden, or something like that? That is part of the debate. You need a rule of law in order to have a robust hunting conservation effort.

Q Can anyone comment on the anxiety the art world is feeling regarding transporting and exhibiting objects that are technically not illegal but perhaps widely seen as immoral outside of this room of art experts?

A MA: I'll just comment briefly from the perspective of the President's Advisory Council. During our public comment periods, the art world and musician world are robustly represented and speak at every meeting.

Q I want to draw attention to the fact that the American Institute for Conservation of Historic and Artistic Works (AIC), a national organization that's concerned about the preservation of objects made of ivory, other endangered species and so forth, has just now come out with a position paper on that subject. Its title is "The Preservation of Cultural Property with respect to U.S. Government Regulation of African Elephant Ivory," and it is available on our website, www.conservation-us.org.

SF: On that positive note, let us end this fascinating and important discussion and thank our truly outstanding speakers.

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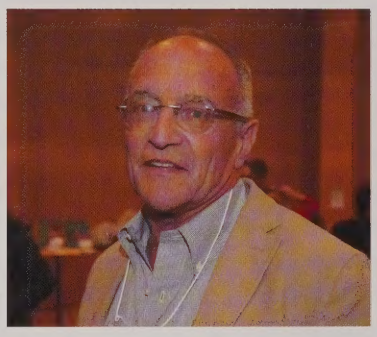
SCENES FROM AN IFAR EVENING

Frances Zeman (left) and Elin Lake Ewald.

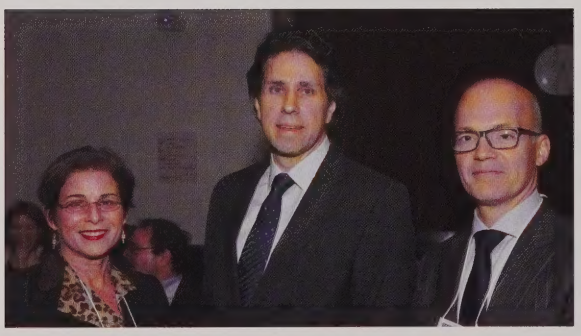
Left to right: Michael McCullough, Sharon Flescher, IFAR's Executive Director, Morgan Manley, Marcus A. Asner, and Ian Wardropper.

Stuart P. Feld and Ian Wardropper.



Stephen K. Urice.

Elizabeth Small (left) and Sandra Schwartz.



Linda Selvin, Michael McCullough, and Georges Lederman.

Left to right: Marcus A. Asner, Anthony Williams, IFAR's Chairman, and Debra Bates.

Credit for these photos and all other images of speakers and guests at this program: Steven Tucker.

WHY?
The United States has a large domestic ivory market, illegal ivory is prevalent.
We must address the U.S. role as a consumer by strengthening controls over our domestic market.
I AM NOT A TRINKET

Craig Hoover explaining why the U.S. is strengthening the Ivory Ban.

Sharon Flescher and Vivian Ebersman.

Hartley Waltman.

Harrison Jackson (left)
and Mary Elizabeth Williams.

Members of the Fordham Art Law Society
led by Morgan Manley (front row, second from the right).

Left to right: Alison Lonshein, Ian Wardropper,
Marc A. Schaffer, and Amy Lamberti.

An invaluable resource for the art world

Art Law & Cultural Property Database

This comprehensive online research tool, developed and continually updated by a nonprofit organization known for scholarship and integrity, is designed to help you navigate the legal landscape relating to the acquisition, authenticity, export, and ownership of art and other cultural objects. The Art Law & Cultural Property Database is widely used by legal scholars, students, attorneys, law enforcement officials, museum administrators, gallerists, journalists, and others involved in the study, collecting, sale, exhibiting, insuring, and authentication of art and cultural objects.

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International Foundation for Art Research (IFAR)
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Most items in this publication are registered in the database of the Art Loss Register, which has an office in London, England at First Floor, 63-66 Hatton Garden, London EC1N 8LE.

The photo of each item is accompanied by a brief description of the work, the ALR catalogue number, if registered, and the date and place of theft. An asterisk before the catalogue number means that a photograph of the stolen work is available, although not necessarily included in this issue.

Anyone wishing additional information should contact the ALR at 44.207.841.5780. From the U.S., add the prefix 011.

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STOLEN ART ALERT®

STOLEN ART*

PAINTINGS

The following two paintings were stolen from a gallery in Santa Fe, NM on December 19, 2015. *L15.1440:

1. **BERT GEER PHILLIPS** (American, 1868-1956). ***The Rabbit Hunters.*** Oil on board. 8.59 x 14.27 cm (approx. 3 ¼" x 5 ½").

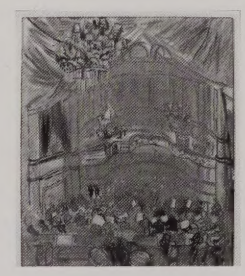
1

2. **JOSEPH HENRY SHARP** (American, 1859-1953). ***Crow Agency, Montana.*** Oil on panel. 7.62 x 154.6 cm (3" x 5 ¾"). Signed l/l: J.H.S.

2

The following two paintings along with two works on paper were stolen from a business in Abbott Park, IL on January 1, 1986 and replaced with copies. The theft was not discovered until 2015, 29 years later. *L16.310. See also nos. 8 and 9:

3. **MILTON AVERY** (American, 1885-1965). ***Mother and Child,*** 1944. See color photo on inside back cover.



4

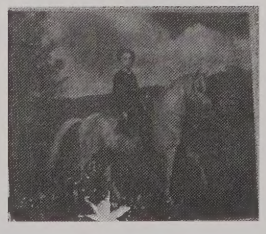
4. **RAOUL DUFY** (French, 1877-1953). ***Le Grand Concert,*** 1948. Oil on canvas. 80.01 x 66.68 cm (31 ½" x 26 ¼"). Signed l/l.

---

5. **MARC SAASTAD** (Norwegian,contemporary). ***The Wharf.*** Painting on canvas. 100.99 x 127 cm (approx. 39 ¾" x 50"). *L16.148. Stolen from a private residence in Cathedral City, CA on January 24, 2016.

5

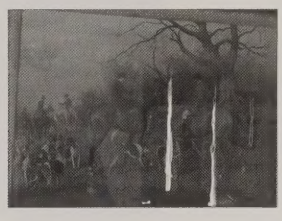
6. **JEAN ÉDOUARD LACRETELLE** (French, 1817-1900). ***The Prince Imperial Bonaparte on his Pony in a Landscape,*** 1867. Oil painting. 36.83 x 44.45 cm (14 ½" x 17 ½"). *L16.39. Stolen from a warehouse in Surrey, England in 1994.



6

*Numbering for the year 2016 Cumulative Index of Stolen Art begins with this issue.

STOLEN ART (cont.)

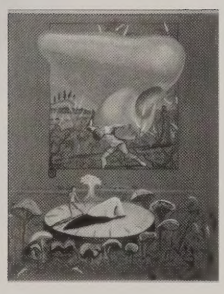


7

7. **GEORGE WRIGHT** (English, 1860-1942). ***Equestrian.*** Oil painting. 60 x 80 cm (approx. 23 ½" x 31 ½"). *L16.126. Stolen from a private residence in Monmouthshire, England on November 1, 2015.

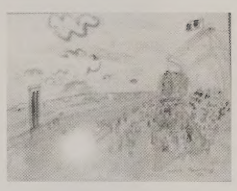
WORKS ON PAPER

The following two works on paper, along with two paintings, were stolen from a business in Abbott Park, IL on January 1, 1986 and replaced with copies. The theft was not discovered until 2015. *L16.310. See also nos. 3 and 4:



8

8. **SALVADOR DALÍ** (Spanish, 1904-1989). ***Illustration Histaminic Reaction,*** 1950. Gouache with India ink on paper. 45.72 x 35.56 cm (18" x 14").

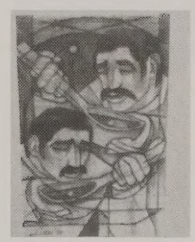


9

9. **RAOUL DUFY** (French, 1877-1953). ***La Tribune de Deauville,*** 1941. Watercolor and gouache on paper. 49.53 x 63.5 cm (a9 ½" x 25"). Signed l/r.

10

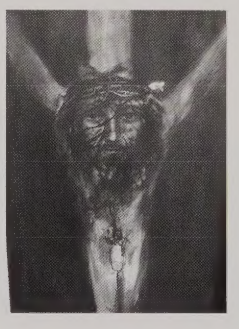
10. **ROLF KAUKA** (German, 1917-2000). ***Fix und Foxi Title Page,*** FF 415. Drawing on paper with an attached titled page heading. 37.29 x 26.59 cm (approx. 14 ¾" x 10 ½"). Inscribed in blue crayon at the top of the page: "BITTE RUCKFRAGE BEI MIR JUL/IUR" The text in the cartoon balloons reads: Friend: "... und wann kommst du mit deiner supertemparakete wieder zurück?" Mischa: "Voraussichtlich Gestern!" *L16.116. Stolen from the Bank Austria Kunstforum, Vienna on October 4, 2015.



11

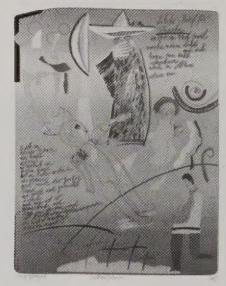
11. **CARLOS LICON** (American, 1929-1982). ***Untitled.*** Chalk on newspaper.55 x 36 cm (approx. 21 ⅝" x 14 ⅛"). *L16.148. Stolen from a private residence in Cathedral City, CA on January 24, 2016.

12. **TOMÁS SÁNCHEZ** (Cuban, born 1948). ***Cristo,*** 1987. Gouache on paper. 19.99 x 14 cm (approx. 7 ¾" x 5 ½"). *L16.412. Stolen from a gallery in Coral Gables, FL on November 26, 2015.



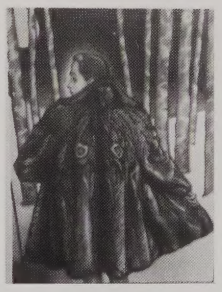
12

13. **EVA-NATUS SALAMOUN** (Czechoslovakian, 1936-2014). ***Cirque du guerre,*** 2002. Oil pencil and ink drawing on lithographic paper. 100 x 70 cm (approx. 39 ⅜" x 27 ½"). Signed l/c. Dated l/r. Inscribed in German l/l: Buntstift auf Lithograph. *L16.381. One of eight works by the artist stolen from a private residence in Pilson, the Czech Republic on May 28, 2015.



13

14. **GEORGE PHILIP STAVRINOS** (American, 1948-1990). ***Back of Woman in Fur Coat with Peacock Feathers,*** 1990. Pencil drawing. 45.72 x 36.2 cm (18" x 14 ¼"). *L16.143. Stolen from the New Hampshire Institute of Art, Manchester, NH on November 25, 2015.



14

PRINTS, ETCHINGS, LITHOGRAPHS

The following seven screenprints by **ANDY WARHOL** (American, 1928-1987), part of a set of ten prints in the Campbell's Soup I series and acquired by the museum in 1985 as a gift from Ronald K., Robert C., and Larry H. Greenburg, were stolen from the Springfield Art Museum, Springfield, MO during the night of April 6-7, 2016. Campbell's Soup I was created by Warhol in a numbered edition of 250. The museum's series is number 31 from the edition. The FBI is offering a reward of up to $25,000 for information. *L16.451:

15. ***Campbell's Soup I (Tomato),*** 1968. See color photo on inside back cover.

16. ***Campbell's Soup I (Beef),*** 1968. Screenprint. 93.98 x 62.23 cm (37" x 24 ½"). From an edition of 250.

16

17. ***Campbell's Soup I (Vegetable),*** 1968. Screenprint. 93.98 x 62.23 cm (37" x 24 ½"). From an edition of 250.

17

STOLEN ART (cont.)

18

19

20

21

18. ***Campbell's Soup I (Onion),*** 1968. Screenprint. 93.98 x 62.23 cm (37" x 24 ½"). From an edition of 250.

19. ***Campbell's Soup I (Green Pea),*** 1968. Screenprint. 93.98 x 62.23 cm (37" x 24 ½"). From an edition of 250.

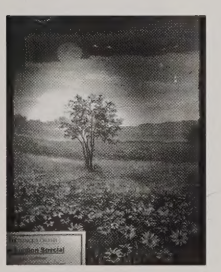
20. ***Campbell's Soup I (Chicken Noodle),*** 1968. Screenprint. 93.98 x 62.23 cm (37" x 24 ½"). From an edition of 250.

21. ***Campbell's Soup I (Black Bean),*** 1968. Screenprint. 93.98 x 62.23 cm (37" x 24 ½"). From an edition of 250.

The following three prints were stolen from a private residence in Spring, TX on January 16, 2016. *L16.137:

22

22. **PETER MAX** (American, born 1937). ***Statue of Liberty.*** Color serigraph on wove paper. 86.66 x 43.48 cm (approx. 34 ⅛" x 17 ⅛"). Signed and numbered in pencil l/r. Artist's reg. no: 292240.0222.



23

23. **DAVID NAJAR** (Israeli, born 1962). ***Heaven,*** 2013. Giclee print on paper. 51.03 x 39.37 cm (approx. 20" x 15 ½"). Reg. No: 307563.0139c.

24

24. **VIKTOR SHVAIKO** (Russian, born 1965). ***Lake Como Blue,*** 2015. Giclee print on canvas with hand embellishment. 36.83 x 50.8 cm (14.5 x 20"). Signed in pigment. Reg. no. 331740.0159.

The following six lithographs by **SALVADOR DALÍ** (Spanish, 1904-1989) were stolen from a private residence in Cathedral City, CA on January 24, 2016. *L16.148:

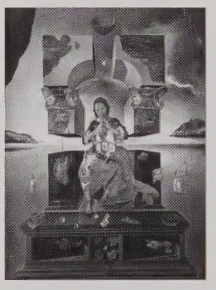
25. ***Impressions of Africa,*** 1980. Lithograph. 96 x 60 cm (approx. 37 ¾" x 23 ½").

25

26. ***Journey to Bethlehem,*** 1984. Lithograph on Arches paper. 96 x 60 cm (approx. 37 ¾" x 23 ½").

26

27. ***The Madonna of Port Lligat, 1931.*** Lithograph on Arches paper. 101 x 76 cm (approx. 39 ¾" x 30"). Ed. no. 85/199.

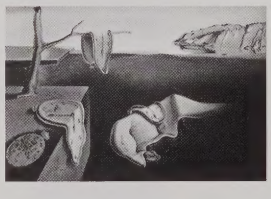


27

28. ***Metamorphosis of Narcissus,*** 1980. Lithograph. 101 x 76 cm (approx. 39 ¾" x 30").

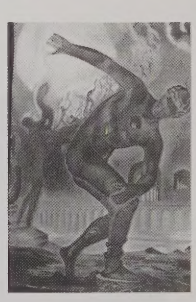
28

29. ***Persistence of Memory,*** 1985. Lithograph on Arches paper. 101 x 76 cm (approx. 39 ¾" x 30"). Ed. no.: 46/640.



29

30. ***The Victorious Athlete,*** 1984. Lithograph on Arches paper. 101 x 76 cm (approx. 39 ¾" x 30"). Ed. no. 85/199.



30

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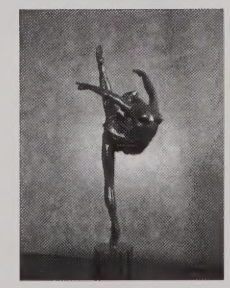
31. **ALBRECHT DÜRER** (German, 1471-1528). ***Die Hure Babylon,*** 1498. See photo on inside back cover.

SCULPTURE

32. **ELISABETH FRINK** (English, 1930-1993). ***Pilgrim,*** 1983. Bronze with a brown patina. 22.86 x 30.48 cm (9" x 12"). Signed and numbered on the base: Frink 8/8. *L16.105. Stolen from a private residence in London, England on July 2, 2004.

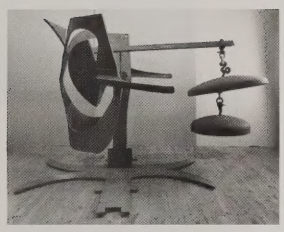
32

33. **TOM MERRIFIELD** (English, born 1930). ***Ballerina.*** Bronze. 25.4 x 10.16 cm (10" x 4". *L16.208. Stolen from a private residence in Nottinghamshire, England on February 2, 2016.

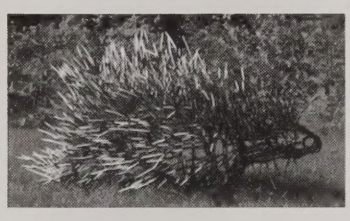


33

STOLEN ART (cont.)



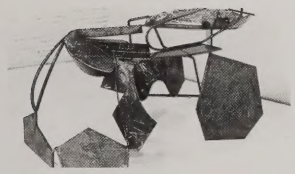
34



35

34. **MARK DI SUVERO** (American, born 1933). ***Steel Sculpture,*** 1990. *L16.47. Stolen from a private residence in Woodstock, NY on January 1, 1995.

35. **WENDY KLEMPERER** (American, contemporary). ***Porcupine.*** Steel and repurposed nails. 25" x 30" x 30". This piece is one of 10 animal sculptures comprising the installation "Glimpse," a gift to the City of Portland (Maine) from William D. and Mary Louise Hamill that was installed in 2011.Porcupine was stolen from the grounds of the Portland International Jetport in late March or early April 2016.



36

36. **PETER REGINATO** (American, born 1945). ***Ring Leader,*** 1975. Steel. 6 feet x 8 feet. Weighs 600 lbs. *L16.477. Stolen from a gallery in Boca Raton, FL on April 14, 2016.

37

37. (European, 19th century). ***Pair of Egyptian Revival Blackamoor Torch Holders.*** Painted wood. 250 x 40 cm (approx. 98 ½" x 15 ¾"). *L16.110. Stolen from the Castle Moulbaix in Belgium on January 1, 2014.

DECORATIVE ARTS

Glass

38. **LOUIS COMFORT TIFFANY** (American, 1848-1933). ***Lily,*** 1870. See color photo on inside back cover.

Silver

The following items were stolen from a private residence in Djursholm, Sweden on March 5, 2016. *L16.402. See also nos. 49-52:

40

39

39. **KARL ANDERSSON** (Swedish, 19th century). ***Candelabra*** (pair), 1899.

40. **ARVID FLOBERG** and **JONAS THOMASSON RONANDER** (Swedish, 18th century). ***Silverware in a wooden case.*** The forks (1790) are by Floberg, and the knives (1764) are by Ronander.

WILLIAM HEWITT, London (English, 19th century):

41. ***Teapot,*** 1841.

42. ***Beer Stein.*** Silver.

43. ***Chalice,*** 1860 (German). Silver.

44. ***Chalice*** (German). Gold-plated silver with rubies.

45. ***Chalice with Plate.*** Gold-plated silver.

46. ***Coffee Urn.*** Silver.

47. ***Wine cups*** (4 pieces). Silver.

41

42

43

44

45

46

ASIAN ART

CHINESE ART

The following items were stolen from a private residence in Djursholm, Sweden on March 5, 2016. *L16.402. See also nos. 39-47:

Paintings

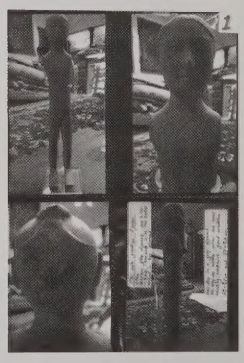
47

48. ***Mural painting*** (Chinese, Tang Dynasty, 618-907 AD). 60 x 35 cm (approx. 23 ½" x 13 ¾").

Ceramics, Pottery

48

49



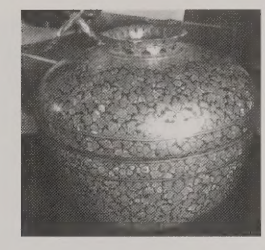
49. ***Male Figure*** (Han Dynasty, 206 BC – 220 AD). Terracotta with gray pigment. Ht: 59 cm (approx. 23 ¼"). Wooden arms are missing.

50. ***Male Figure*** (Han Dynasty, 206 BC – 220 AD). Terracotta. Ht: 58 cm (approx. 22 ¾"). Wooden arms are missing.

50

STOLEN ART (cont.)

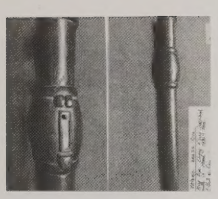
Silver



51

51. ***Rice Presentation Bowl*** (Thai). Silver with gilding and inlaid with black niello. 15.5 x 18 cmm (approx. 6" x 7").

Arms & Armor



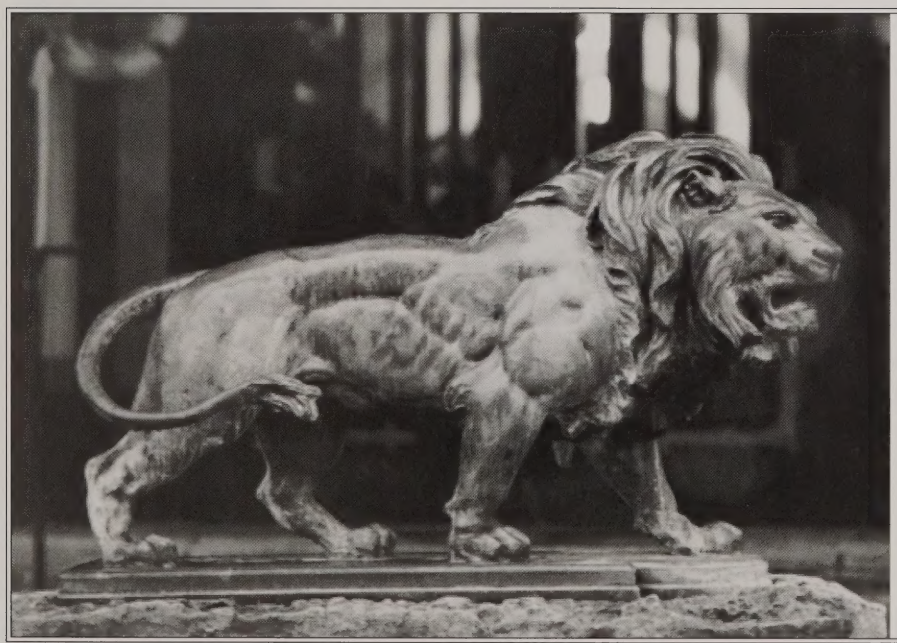
52

52. ***Gun,*** 1436 AD. (Ming Dynasty). Bronze. Length: 36.2 cm (approx. 14 ¼").

TIBETAN ART

53. ***Dharmaraja Yama with Yami.*** (Tibetan). See color photo on inside back cover.

ADVERTISEMENT



STILL MISSING

REWARD: $10,000

EDWARD CLARK POTTER
(1857–1923)

"Leo the Lion," circa 1920.
Bronze. Approx. 3 ft. x 4 ft. x 2 ft.
*N93.220.1.

Stolen from a golf club in Mamaroneck, NY on April 26, 1993.

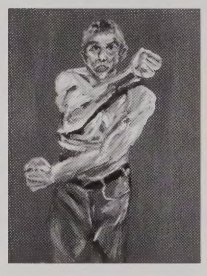
If you have information, please contact:

Colin A. Burns, tel: (914) 698-8400

MISSING ART

PAINTINGS

1. **MICHAEL HAFFTKA** (American, born 1953). ***Puncher,*** 1995. Oil on canvas. (101.6 x 76.2 cm (40" x 30"). On the verso: signature, date, and cat no. 3618. *L16.5. Missing from storage in Brooklyn, NY on October 11, 2015.



1

2. **LEON POLK SMITH** (American, 1906-1996). ***Interior in Black and Red,*** 1946. Oil on panel. 53.34 x 43.18 cm (21" x 17"). *L16.250. Stolen from the Georgia Museum of Art, University of Georgia, Athens, GA on March 12, 2012.

2

3. **CARL G. VON IWONSKI** (German, 1830-1912). ***Meta Klappenbach,*** 1877. Oil painting. 76.2 x 50.8 cm (30" x 20"). *L16.356. Stolen from a private residence in New Braunfels, TX on March 16, 2016.

3

4. **AHMED YACOUBI** (Moroccan, 1931-1985). ***Falling Creatures,*** 1976. Oil on canvas. 66.04 x 71.12 cm (26" x 28"). *L16.274. Stolen from a storage facility in London England on August 31, 1999.

4

MIXED MEDIA

5. **TERENCE DAVID LA NOUE** (American, born 1941). ***Ancient and Lost Rivers – Akrill,*** 1998. Mixed media on wood. 105.41 x 85.09 cm (41 ½" x 33 ½"). On the verso: a white label with "Cleveland Clinic Art Collection." *L16.407. Stolen from the Cleveland Clinic, Cleveland, OH on March 10, 2016.

5

*Numbering for the year 2016 Cumulative Index of Missing Art begins with this issue

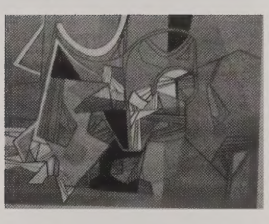
MISSING ART (cont.)

WORKS ON PAPER

6

6. **OSKAR SCHLEMMER** (1888-1943). ***Dark Figure with Red Circle,*** 1931. Aquarelle. 19 x 17 cm (approx. 7 ½" x 6 ¾"). Number in oeuvre catalog: 661. Label on verso reads: For the authenticity of the above-identified work of Oskar Schlemmer Oeuvre Kat K.V. Maur A 405 fig (Mrs. Tut Schlemmer). *L16.450. Missing from a museum in Magden, Switzerland on November 17, 2015. The original work was taken and replaced by a copy but the original backside and label of Schlemmer's studio were not.

PRINTS, LITHOS



7

7. **ROBERTO BURLE MARX** (Brazilian, 1909-1994). ***Untitled,*** 1975. Print on paper. 70 x 89.99 cm (approx. 27 ½" x 35 ½"). Signed and dated l/r. Ed. no. 20/50. *L16.140. Missing at Heathrow Airport, London on January 22, 2016.

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RECOVERED ART

PAINTINGS

The following seventeen paintings were stolen by three men during an armed robbery from the Museo Civico in Castelvecchio, Verona, Italy just before closing time on November 19, 2015. *L15.1305. (See *IFAR Journal*, Vol. 16, no. 4, item nos. 159-175.) They were recovered in May 2016 in Kiev, Ukraine, close to the border with Moldova:

1. **HANS DE JODE** (Dutch, 1630-after 1662). ***Landscape.*** Oil on canvas. 70 x 99 cm (approx. 27 ½″ x 39″). Inv. no. 6275-1B0685.

1

2. **HANS DE JODE.** ***Sea Port.*** Oil on canvas. 70 x 99 cm (approx. 27 ½″ x 39″). Inv. no. 6273-1B0680.

2

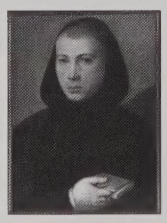
3. **JACOPO BELLINI** (Italian, born c. 1400 – died c. 1470). ***Saint Jerome the Penitent.*** Tempera on panel. 95 x 65 cm (approx. 37 ½″ x 25 ½″). Inv. no. 876-1B0306.

3

4. **GIAN LORENZO BERNINI** (Italian, 1598-1680). ***Portrait of Girolamo Pompei.*** Oil on canvas. 85 x 63 cm (approx. 33 ½″ x 24 ¾″). Inv. no. 45793-1B4017.

4

5. **GIOVANNI FRANCESCO CAROTO** (Italian, 1480-1555). ***Portrait of a Young Monaco Benedictine.*** Oil on canvas. 43 x 33 cm (approx. 17″ x 13″). Inv. no. 1407-1B0142.



5

6. **GIOVANNI FRANCESCO CAROTO.** ***Portrait of a Young Man with Children's Drawing.*** Oil on panel 37 x 29 cm (approx. 14 ½″ x 11 3⁄8″).

6

*Numbering for the year 2016 Cumulative Index of Recovered Art begins with this issue.

RECOVERED ART (cont.)

7

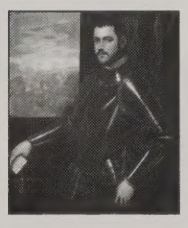
7. **ANDREA MANTEGNA** (Italian, 1431-1506). ***Holy Family with a Saint.*** Tempera on canvas. 76 x 55.5 cm (approx. 30″ x 21 ¾″). Inv. no. 855-1B0087.

8

8. **PISANELLO (ANTONIO PISANO)** (Italian, 1345-1455). ***Our Lady of the Quail.*** Icon. Tempera on panel. 54 x 32 cm (approx. 21 ¼″ x 12 ½″). Inv. no. 164-1B0090.

9

9. **DOMENICO TINTORETTO (DOMENICO ROBUSTI)** (Italian, 1560-1635). Po***rtrait of Marco Pasqualigo.*** Oil on canvas. 48 x 40 cm (approx. 19″ x 15 ¾″). Inv. no. 6707-1B0158.



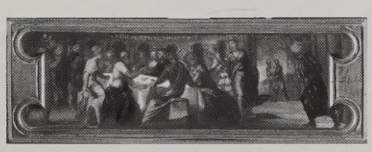
10

10. **DOMENICO TINTORETTO *(Studio of). Portrait of a Venetian Admiral.*** Oil on canvas. 110 x 84 cm (approx. 43 ⅜″ x 35″). Inv no. 1602-1B0710.

11

11. **PETER PAUL RUBENS** (Flemish, 1577-1640). ***The Lady of Licnidi,*** 1602. Oil on canvas. 76 x 60 cm (approx. 29″ x 23 ½″). Inv. no. 1779-1B0166.

JACOPO TINTORETTO (JACOPO ROBUSTI) (Italian, 1518-1594):



12

12. ***Feast of Belshazzar.*** 26.49 x 79 cm (approx. 10 ⅜" x 31"). Inv. no. 264-1B0229.

13

13. ***Madonna Allattante.*** Oil on canvs. 89 x 76 cm (approx. 35″ x 30″). Inv. no. 1285-1B1623.

14

14. ***Samson***. 26.49 x 79 cm (approx. 10 ⅜″ x 31″). Inv. no. 265-1B0228.

JACOPO TINTORETTO (Circle of):

15. ***Judgment of Solomon.*** Oil on canvas. 26.409 x 79.5 cm (approx. 10 ½″ x 31 ⅜″). Inv. no. 266-1B0230.

15

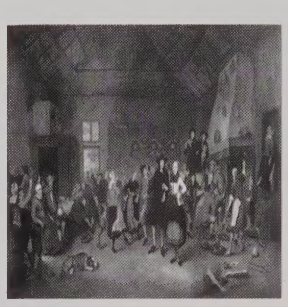
16. ***Male Portrait.*** Oil on canvas. 54 x 44 cm (approx. 21 ¼" x 17 ¼"). Inv. no. 44381-1B4013.

16

17. ***Transport of the Ark of the Covenant.*** Oil on canvas. 28 x 80 cm (approx. 11″ x 31 ½″). Inv. no. 263-1B0227.

17

The following five paintings were among two dozen paintings and works on paper along with numerous silver items that were stolen from the Westfries Museum in Hoorn, The Netherlands on January 9, 2005. *L05.41. Four of the works, held for ransom by Ukrainian militia, were recovered in April 2016 through the efforts of private investigators and the Ukrainian secret service. A fifth work, Izaak Ouwater's ***Nieuwstraat in Hoorn,*** was handed over to authorities by a Ukrainian good faith purchaser in May:



18

18. **HENDRIK BOOGAERT** (Dutch, 1626/7-1672). ***Farmer's Wedding,*** c. 1671. Oil on canvas. 109 x 174 cm (43" x 68 ½").

19

19. **IZAAK OUWATER** (Dutch, 1748-1793). ***Nieuwstraat in Hoorn,*** 1784. Oil painting.

20

20. **FLORIS GERRITSZ VAN SCHOOTEN** (Dutch, 1590, c. 1655). ***Kitchen Peace.*** Oil on canvas. 112 x 178 cm (44" x 70").

21

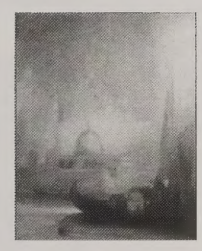
21. **JACOB WABEN** (Dutch, 17th century). ***Woman's World,*** 1622. Oil on canvas. 131 x 151 cm (51 ½" x 59 ½").

22

22. **JACOB WABEN** (Dutch, 17th century). ***Return of Jephta,*** 1625. Oil on canvas. 103 x 163 cm (40 ½" x 64 ⅛").

RECOVERED ART (cont.)

The following 14 paintings were among 16 works stolen in a violent robbery from the country mansion of former Tory MP Esmond Bulmer in Bruton, England on March 20, 2009. *L09.230. (*IFAR Journal,* Vol. 11, nos. 3&4, nos. 68-71). They were recovered by private investigators and local police in September 2015:

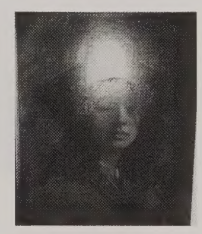


23

23. **RICHARD PARKS BONNINGTON** (English, 1802-1828). ***View of San Giorgio Maggiore,*** Venice. Oil on panel. 62.86 x 43.54 cm (24 ¾" x 17 ⅛").

24

24. **JAN BREUGHEL THE ELDER, *Circle of*** (Flemish, 1525-1569). ***Classical Landscape.*** Oil on copper. 20.96 x 28.58 cm (8 ¼" x 11 ¼").

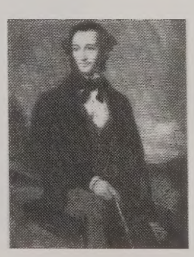


25

25. **RICHARD BUCKNER** (English, 1847-1921). ***An Italian Peasant Boy.*** Oil on canvas. 52.07 x 40.64 cm (20 ½" x 16").

26

26. **GEORGE CLAUSEN** (English, 1852-1944). ***Apple Blossom,*** 1899. Oil on canvas. 56.51 x 40.64 cm (22 ¼" x 16"). Signed and dated l/r. Verso: titled, signed and dated.

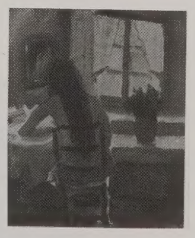


27

27. **FRANCIS GRANT** (Scottish, 1803-1878). ***Portrait of Sir Francis Geary,*** 1852. Oil on board. 35.41 x 24.99 cm (approx. 14" x 9 ¾"). Inscribed on verso: Fras. Geary 1852 by Fras. Grant RA.

28

28. **LOTTE LASERSTEIN** (German-Swedish, 1898-1993). ***Farmer Boy.***



29

29. **PAUL LUCIEN MAZE** (French, 1887-1979). ***Woman Sitting at a Window,*** 1920. Oil on canvas. 25.4 x 20.32 cm (10" x 8"). Signed and dated l/l.

30

30. **JOHN ANTHONY PARK** (English, 1880-1962). ***St. Ives.*** Oil on panel. 33.02 x 40.64 cm (13" x 16"). Signed l/r.

31. **EDWARD POYNTER** (English, 1836-1919). ***The Knot,*** 1872. Oil on panel. 20.32 x 20.32 cm (8" x 8").

32. **EDWARD POYNTER** (English, 1836-1919). ***Reading,*** 1871. Oil on panel. 20.32 x 20.32 cm (8" x 8").

33. **ALESSANDRO ROSI** (Italian, 1627-1697). ***A Female Saint with a Putto.*** Oil on canvas. 64.01 x 50.5 cm (approx. 25 ¼" x 19 ¾").

34. **GYRTH RUSSELL** (Canadian, 1892-1970). ***Polperro, Cornwall.*** Oil on baoard. 38.1 x 43.18 cm (15" x 17"). Signed l/r.

35. **JAMES WARD** (English, 1769-1859). ***Grey Pony in a Stormy Landscape.*** Oil on canvas. 32.38 x 16.51 cm (12 ¾" x 6 ½").

36. **GEORGE FREDERICK WATTS** (English, 1817-1904). ***Endymion,*** 1872. Oil on canvas. 52 x 65 cm (approx. 20 ½" x 25 ½").

The following two paintings were stolen in a burglary from a private residence in Amsterdam, The Netherlands on March 3, 2010 and recovered with the help of the ALR in February 2016. *L11.7 (R1617 and R1618):

37. **JOHANNES EVERT HENDRIK AKKERINGA** (Dutch, 1861-1942). ***Still Life with Roses.*** Oil on canvas. 56.01 x 43.51 cm (approx. 22" x 17").

38. **JOHANNES ZOETELIEF TROMP** (Dutch, 1872-1947). ***Three Children and a Dog.*** Oil on canvas. 23.01 x 38.99 cm (approx. 9" x 15 ¼"). Signed l/l.

39. **SAM FRANCIS** (American, 1923-1994). ***Untitled,*** 1993. Oil on canvas. 46 x 61.01 cm (approx. 18 ¼" x 24"). *L14.720. Stolen from a gallery in Toulouse, France on August 27, 2013. Recovered by police in Portugal in March 2016.

RECOVERED ART (cont.)

40

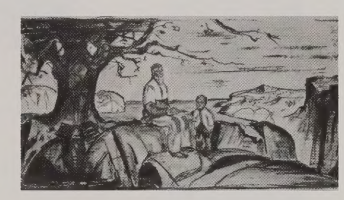
41

The following two paintings, both stolen in Rome in 1994 – one from the home of Emilio Colombo, the Senator and Prime Minister of the Italian State (1970-1972) and the other from the office of an accountant – were recovered in England in May through the joint efforts of the ALR and the Carabinieri:

40. **VALENTIN DE BOULOGNE** (French, 1591-1632). ***Concert with Four People and a Drinker.*** Oil on canvas. 1120 x 160 cm (approx. 47 ¼" x 63" *T.10.18273.

41. **ANIELLO FALCONE** (Oracolo delle Battaglie) (Italian, 1607-1656). ***Battle Scene.*** Oil on canvas. 1.5 x 2 m. *L97.1377.

WORKS ON PAPER



42

42. **EDVARD MUNCH** (Norwegian, 1863-1944). ***History,*** 1914. Lithograph on paper. 57.51 x 98.5 cm (approx. 22 ½" x 38 ¾"). Hand-colored by the artist. Signed l/r. Inscribed: NO 12 19/1 1922. No. 426 in Gustave Schiefler's Edvard Munch, das Graphische Werk 1906-1926. *L09.718. Stolen from a gallery in Oslo, Norway on November 12, 2009. (IFAR Journal, Vol. 11, no. 2, item no. 50). Recovered by Norwegian police on April 6, 2016.

CLOCKS, WATCHES, TIMEPIECES

43

43. **WILLIAM CARPENTER,** LONDON (English, 18th century). ***George III Striking Table Clock,*** 1775. Ormulu. 32.99 x 17.5 cm (approx 13" x 6 ¾"). *L97.1515. Stolen from a London dealer on July 21, 1997. Recovered with the help of the ALR in November 2015.

NAVIGATIONAL INSTRUMENTS

44

44. **D. MCGREGOR & CO. LTD.,** GLASGOW (Scottish, early 20th century). ***Two-Day Marine Chronometer.*** Metal and glass. 20.32 x 20.32 x 20.32 cm (7" x 7" x 8"). Mounted on a locking gimbal with a key in a brass-bound mahogany case. The white dial is inscribed: McGregor of Glasgow No. 8152. *L10.108819. Stolen from a private residence in Hertfordshire, England on May 9, 2010. Recovered with the help of the ALR in London in 2015.

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3

31

15

38

53

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STOLEN ART

PAINTINGS

3. MILTON AVERY (American, 1885-1965). ***Mother and Child,*** 1944. Oil on canvas. 74.93 x 55.88 cm (29 ½" x 22"). *L16.310. One of four works stolen from a business in Abbott Park, IL on January 1, 1986 and replaced with copies. See also nos. 4, 8, 9.

PRINTS, ETCHINGS, LITHOGRAPHS

15. ANDY WARHOL (American, 1928-1987). ***Campbell's Soup I (Tomato),*** 1968. Screenprint. 93.98 x 62.23 cm (37" x 24 ½"). From an edition of 250. One of a set of ten prints in the Campbell's Soup I series stolen from the Springfield Art Museum, Springfield, MO during the night of April 6-7, 2016. *L16.451. See also item nos. 16-21.

31. ALBRECHT DÜRER (German, 1471-1528). ***Die Hure Babylon,*** 1498. Woodcut from the Apocalyptic Cycle. Signed at bottom center: AD. *L16.34. Stolen from the residence of Otto Schenk in Oberhofen, Switzerland between February 2 and March 21, 2016.

DECORATIVE ARTS

GLASS

38. LOUIS COMFORT TIFFANY (American, 1848-1933). ***Lily,*** 1870. Lancet stained glass window. Approx. 160.0 x 38.1 cm. Signed. Lettering at the bottom of the window: IN MEMORIAM. Taken with the frame measuring 5.1 cm at the top and sides and 10.2 cm at the bottom. *N88.421. Thieves stole this Tiffany window, brass hinges, screws and all from St. Savior's Episcopal Church in Bar Harbor, Maine on the evening of June 18, 1988. Originally published in *IFARreports,* Jul./Aug. 1988, Vol. 9, nos. 7/8, p. 23, no. 763 and *still missing.*

ASIAN ART

TIBETAN ART

53. (Tibetan). ***Dharmaraja Yama with Yami.*** Bronze, copper, and silver gilt with turquoise inlay. Ht: 18.08 cm (approx. 7 ⅛"). *L16.363. Stolen from a New York gallery on March 16, 2016.

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